

FEDERAL REGISTER

THE NATIONAL ARCHIVES
OF THE UNITED STATES
1934

VOLUME 7 NUMBER 236

Washington, Thursday, December 3, 1942

Regulations

TITLE 7—AGRICULTURE

Chapter VII—Agricultural Adjustment Administration

[ACP-1943]

PART 701—AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUBPART E—1943

Payments will be made for participation in the 1943 Agricultural Conservation Program (hereinafter referred to as the 1943 program) in accordance with the provisions of this bulletin and such modifications thereof as may hereafter be made.

Sec.

- 701.401 Allotments, yields and grazing capacities.
- 701.402 War crop goals.
- 701.403 Production adjustment allowance and deductions.
- 701.404 Production practice goals, allowances, practices and rates of payment.
- 701.405 Division of payments and deductions.
- 701.406 Increase in small payments.
- 701.407 Payments limited to \$10,000.
- 701.408 Deduction for association expenses.
- 701.409 Conservation materials.
- 701.410 General provisions relating to payments.
- 701.411 Application for payment.
- 701.412 Appeals.
- 701.413 State and regional bulletins, instructions, and forms.
- 701.414 Definitions.
- 701.415 Authority, availability of funds, and applicability.

AUTHORITY: §§ 701.401 to 701.415, inclusive, issued under secs. 7 to 17, as amended, 49 Stat. 1148, 1915, 50 Stat. 329, 52 Stat. 31, 204, 205; 53 Stat. 550, 573; 54 Stat. 216, 727; Pub. Law 121, 77th Cong.; 16 U.S.C. 590g to 590q.

§ 701.401 *Allotments, yields and grazing capacities.* National and State acreage allotments for corn, cotton, peanuts, rice, and each kind of tobacco, will be established by the Secretary. The national wheat allotment is 55,000,000 acres. The State wheat allotments shall be identical with the 1943 State wheat allotments established June 12, 1942, under Title III of the Agricultural Adjustment Act of 1938, as amended.

County allotments will be determined by the Agricultural Adjustment Agency, with the assistance of the State committee, in accordance with the provisions contained herein. Farm allotments, farm normal yields, and farm grazing capacities shall be determined by the county committee, with the assistance of the appropriate local committees in the county, in accordance with the provisions contained herein and instructions issued by the Agricultural Adjustment Agency.

(a) *Corn*—(1) *County acreage allotments.* County allotments of corn for counties in the commercial corn area shall be determined by distributing the corn allotment established for the commercial-corn area within the State among such counties in such State pro rata on the basis of the acreage seeded for the production of corn plus the acreage diverted from corn under the agricultural adjustment and conservation programs in such counties during the 10 years 1932 through 1941, with adjustments for abnormal weather conditions and trends in acreage.

(2) *Farm acreage allotments.* Corn allotments shall be determined for farms in the commercial area. The allotment for each farm shall be determined on the basis of tillable acreage and crop-rotation practices, as reflected in the usual acreage of corn for the farm, with adjustments of not to exceed 50 percent for types of soil and topography.

For those farms for which the 1942 corn allotments reflect these factors in accordance with the conditions as applicable in 1943, the 1942 allotments may be used in determining 1943 allotments. If the county committee determines that the 1942 allotment for a farm does not reflect these factors in accordance with the conditions applicable in 1943 due to a change in type of farming operations, change in farm land, change in cropland acreage, drought, flood, or any other unusual conditions, an allotment shall be determined which reflects the factors as applicable in 1943. Such allotment shall be determined on the basis of the foregoing factors or the average ratio of 1942 corn allotments to cropland for similar farms in the county.

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Published daily, except Sundays, Mondays, and days following legal holidays by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500), under regulations prescribed by the Administrative Committee, approved by the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the **FEDERAL REGISTER** will be furnished by mail to subscribers, free of postage, for \$1.25 per month or \$12.50 per year, payable in advance. Remit money order payable to the Superintendent of Documents directly to the Government Printing Office, Washington, D. C. The charge for single copies (minimum, 10¢) varies in proportion to the size of the issue.

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The allotment for any farm shall compare with the allotments for other farms in the same community which are similar with respect to the foregoing factors. The corn allotments determined for the farms in a county shall not exceed the county corn allotment.

(3) *Normal yields.* For each farm for which a corn allotment is determined or a deduction with respect to corn is to be computed, a normal yield of corn shall be determined as follows:

(i) Where reliable records of the actual average yields per acre of corn for the 10 years 1932 through 1941 are presented by the farmer or are available to the committee, the normal yield for the farm shall be the average of such yields, adjusted for trends in yields and abnormal weather conditions;

(ii) If for any year of such 10-year period reliable records of the actual average yield are not available or there was no actual yield because corn was not planted on the farm in such year, the normal yield for the farm shall be the yield which, on the basis of all available facts, including the yield in years for which data are available, weather conditions, type of soil, drainage, production practices, and general fertility of the land, the county committee determines to be the yield which was or could reasonably have been expected on the farm for such 10-year period; and

(iii) The yields determined under subdivision (ii) of this subparagraph (3) shall be adjusted so that the weighted average of the normal yields for all farms in the county shall not exceed the county yield established by the Secretary.

(4) "Commercial corn area or commercial corn-producing area" means counties designated by the Agricultural Adjustment Agency with the approval of the Secretary. This area will include the counties which have produced an average of at least 450 bushels of corn per farm and 4 bushels of corn per acre of farm land during the past 10 years. It will also include bordering counties

containing townships producing and likely to produce an average of 450 bushels of corn per farm and 4 bushels of corn per acre of farm land.

(5) "Non-corn-allotment farm" means a farm in the commercial corn area:

(i) For which no corn allotment is determined, or

(ii) For which a corn allotment of 15 acres or less is determined and the acreage planted to corn exceeds the allotment by 10 percent or more.

(6) "Acreage planted to corn" means the acreage of land on which field corn is planted (except any acreage of sown corn used as a cover crop or green manure crop and any acreage of corn used as a trap crop in connection with the control of the European corn borer) and the acreage of sweet corn used for livestock feed: *Provided*, That all or any part of any corn acreage destroyed by causes beyond the control of the operator may be replaced with an equal acreage of corn planted after such destruction and the acreage so replaced shall not be regarded as acreage planted to corn.

(b) *Cotton*—(1) *County acreage allotments.* County cotton allotments shall be determined as follows: The State cotton allotment (less not to exceed 1 percent for use in determining allotments for farms on which cotton will be planted in 1943 but on which cotton was not planted in any of the 3 years 1940 through 1942) shall be prorated among the counties in the State on the basis of the acreage planted to and diverted from cotton during the 5 years 1937 through 1941, adjusted for abnormal weather conditions and for trends in acreage: *Provided*, That there shall be added to the allotment so determined for each county the number of acres required to provide an allotment in such county of not less than 60 percent of the acreage planted to cotton in such county in 1937 plus 60 percent of the acreage diverted from cotton in the county in 1937.

In administrative areas which were treated separately for 1942 and in any additional administrative areas where the Agricultural Adjustment Agency finds that, because of differences in types, kinds, and productivity of the soil or other conditions, one or more of the administrative areas in any county should be treated separately in order to prevent discrimination, the county allotment shall be apportioned pro rata among such administrative areas on the basis of the acreage planted to cotton in 1937 plus the acreage diverted from cotton in 1937, or, if the Agricultural Adjustment Agency determines that conditions affecting the acreage planted to cotton were not reasonably uniform throughout the county in 1937, then on the basis of the cotton base acreages determined under the 1937 Cotton Price Adjustment Payment Plan. Allotments to the farms within each such administrative area shall be made in the manner provided in subparagraph (2) below for the apportionment of county cotton allotments among farms.

(2) *Farm acreage allotments*—(i) *Farms on which cotton was planted during the period 1940-42*—(a) *Initial farm*

acreage allotments. An initial allotment shall be established for any farm on which cotton was planted in any one of the three years 1940 through 1942 equal to the highest planted plus diverted cotton acreage in any of such years, but not to exceed 5 acres.

(b) *Reserve for farms with allotments of 5 to 15 acres.* If the county cotton allotment is more than sufficient to make initial allotments there shall be set aside for adjustment of allotments on farms having allotments of 5 to 15 acres, an amount of not more than 3 percent of the county cotton allotment which remains after making initial allotments.

(c) *Apportionment on the basis of tilled acreage.* The county allotment less the acreage required for initial allotments of less than 5 acres and the acreage set aside under inferior subdivision (b) above shall be apportioned among farms on which the highest planted plus diverted cotton acreage in any of the three years 1940 through 1942 was 5 acres or more. The apportionment shall be made by multiplying the adjusted acreage of land tilled or in regular rotation on the farm in 1942 by the cotton percentage factor for the county or administrative area. For this purpose the acreage of land tilled or in regular rotation in 1942 shall be adjusted by subtracting therefrom the acreage devoted to the production of sugar cane for sugar; wheat, tobacco, or rice for market; or of wheat or rice for feeding to livestock for market. The cotton percentage factor for the county or administrative area shall be determined by dividing the cotton allotment available for apportionment by the adjusted 1942 acreage of land tilled or in regular rotation on farms with initial allotments of 5 acres or more.

(d) *Adjusting farm acreage allotments from 4 percent State reserve.* If the county cotton allotment is insufficient to provide allotments to farms in the county which are determined to be adequate and representative in view of their past production of cotton and their tilled acreage, there shall be apportioned to such farms a part of the 4 percent State reserve, so as to give such farms as adequate and as representative allotments as the State reserve will permit. The acreage apportioned from the 4 percent State reserve shall be used first to provide adequate initial allotments, and thereafter to increase other allotments which are substantially smaller than they would be except for the provision for initial allotments.

(e) *Increase of farm acreage allotments for past production.* After allotments have been made from the 4 percent State reserve, as provided in inferior subdivision (d) above, the remainder of the State reserve, if any, shall be apportioned to the farms for which the allotment otherwise determined is less than 50 percent of the planted plus diverted cotton acreage on the farm in 1937, and to farms on which the allotment is determined to be inadequate in view of past production.

(f) *Distribution of reserve for farms with allotments of 5 to 15 acres.* Any farm allotment of 5 acres or more, but

not exceeding 15 acres, may be increased from the reserve established under inferior subdivision (b) above. The increase shall be made on the basis of the land, labor, and equipment available for the production of cotton, crop rotation practices and the soil and other physical facilities affecting the production of cotton.

(g) *Minimum and maximum farm acreage allotments.* The cotton allotment for any farm shall not exceed the highest planted plus diverted cotton acreage in any one of the three years 1940 through 1942. The cotton allotment for any farm shall not be less than 50 percent of the 1937 planted plus diverted cotton acreage on the farm except that the allotment shall not be increased thereby in excess of 40 percent of the acreage on the farm which in 1942 was tilled or in regular rotation. The allotment required to meet this minimum shall be in addition to the county cotton allotment and the 4 percent State reserve.

(h) *Use of 1942 allotment for 1943.* Notwithstanding any other provision of this subparagraph (2) in accordance with instructions issued by the Agricultural Adjustment Agency, the 1943 farm cotton allotment shall be the 1942 cotton allotment adjusted for changes in tilled acreage and highest planted plus diverted acreage.

(i) *Reducing allotments for overplantings.* In California the cotton allotment determined in accordance with the foregoing provisions shall be decreased by two-thirds for any farm for which no cotton allotment was determined for 1942, and by two-thirds of the amount of the increase in the cotton allotment resulting from overplanting in 1942 of the cotton allotment determined for the farm for 1942.

(j) *Reapportionment of unused farm acreage allotments.* After making the cotton allotments according to the foregoing provisions of this subparagraph (2), any part of the cotton allotment apportioned to any farm which the operator releases to the county committee because it will not be planted to cotton in 1943 shall be deducted from the allotment to such farm and the acreage so deducted may be apportioned to other cotton farms in the State, preference being given to farms in the same county receiving allotments which are inadequate and not representative in view of the past production of cotton on each farm. In such apportionment the county committee shall consider only the character and adaptability of the soil and other physical facilities affecting the production of cotton and the need of the operator of the farm for an additional allotment to meet the requirements of the families engaged in the production of cotton in 1943 on the farm: *Provided*, That the cotton allotment for any farm shall not be increased under this item to more than 40 percent of the acreage on such farm which is tilled annually or in regular rotation.

(ii) *Farms on which cotton was not planted during the period 1940-42.* Allotments for farms on which cotton will

be planted in 1943 but on which cotton was not planted in any of the three years 1940 through 1942 will be determined on the basis of land, labor, and equipment available for the production of cotton, crop-rotation practices, and the soil and other physical facilities affecting the production of cotton, taking into consideration also the producer's farming plans. As a reflection of the several factors to be taken into consideration, the acreage on the farm which will be tilled in 1943 or was tilled in 1942 will be the basic index of the farm's capacity for cotton production: *Provided*, That the allotment shall not exceed an acreage equal to 50 percent of the county cotton factor, times the adjusted tilled acreage in the farm, except that (a) for any such farm with respect to which the county committee recommends an allotment of less than 3 acres such recommendation shall be the cotton allotment for the farm if the State reserve for new farms is sufficient therefor, or for any such farm with respect to which the county committee recommends an allotment of 3 acres or more the allotment for the farm shall not be less than 3 acres if the State reserve for new farms is sufficient therefor, taking into consideration also the local committee's recommendation, and (b) for a farm on which the operator was, in 1942, a producer of cotton on land subsequently removed from agricultural production because of acquisition by a State or Federal agency or for use in connection with the national defense program, the county cotton factor times the adjusted tilled acreage for the farm may be regarded as the basic index of the farm's capacity for cotton production. The sum of the allotments for all such farms in the State shall not exceed the State reserve therefor.

(3) *Normal yields.* For each farm for which a cotton allotment is determined or a deduction with respect to cotton is to be computed, a normal yield of cotton shall be determined as follows:

(i) Where reliable records of the actual average yield of cotton per acre for the 5 years 1937 through 1941 are presented by the farmer or are available to the committee, the normal yield for the farm shall be the average of such yields, adjusted for abnormal weather conditions;

(ii) If for any year of such 5-year period records of the actual average yield are not available or there was no actual yield because cotton was not produced on the farm in such year, the normal yield for the farm shall be the yield which, on the basis of all available facts, including the yield in years for which data are available, weather conditions, type of soil, drainage, production practices, and general fertility of the land, the committee determines to be the yield which was or could reasonably have been expected on the farm for such 5-year period; and

(iii) The yields determined under this subparagraph (3) shall be adjusted so that the weighted average of the normal yields determined for all farms in the county or administrative area shall not exceed the county or administrative area yield established by the Secretary.

(4) "Acreage planted to cotton" means all land seeded to cotton, except that the acreage planted to cotton on any farm shall not exceed the largest of the cotton allotment, the acreage of cotton on the farm when performance is determined, or the acreage of cotton which reaches the stage of growth at which bolls are first formed: *Provided*, That any acreage on which all of the cotton produced is determined to staple $1\frac{1}{2}$ inches or more in length will not be considered as planted to cotton. (Cotton produced from pure strains of Sea Island or American-Egyptian seed will be considered to staple $1\frac{1}{2}$ inches or more in length, provided all such cotton is ginned on a roller gin.)

(c) *Peanuts*—(1) *Farm acreage allotments*. Peanut allotments shall be determined for all farms for which a 1942 peanut allotment was or could have been determined and on which peanuts were produced during any of the 3 years 1940 through 1942, on the basis of the average acreage of peanuts grown on the farm in the 3 years 1940 through 1942, and the tillable acreage available for the production of peanuts on the farm, taking into consideration the peanut allotments determined for the farm under previous agricultural conservation programs and other crop allotments determined for the farm for 1943; *Provided, however*, That any acreage of peanuts harvested in excess of the 1941 or 1942 farm peanut allotment shall not be considered in determining the 1943 peanut allotment.

For those farms for which the 1942 peanut allotment reflects the above factors in accordance with conditions as applicable in 1943, the 1942 allotments may be used in determining 1943 allotments. The allotment for any farm shall compare with the allotments for other farms in the same community which are similar with respect to the foregoing factors. The peanut allotments determined for all farms in the State shall not exceed the State peanut allotment.

(2) *Normal yields*. For each farm for which a peanut allotment is determined a normal yield of peanuts shall be determined as follows:

(i) Where reliable records of the actual average yield of peanuts per acre for the 5 years 1937 through 1941 are presented by the farmer or are available to the committee, the normal yield for the farm shall be the average of such yields, adjusted for abnormal weather conditions;

(ii) If for any year of such 5-year period records of the actual average yield are not available or there was no actual yield because peanuts were not produced on the farm in such year, the normal yield for the farm shall be the yield which, on the basis of all available facts, including the yield in years for which data are available, weather conditions, type of soil, drainage, production practices, and general fertility of the land, the committee determines to be the yield which was or could reasonably have been expected on the farm for such 5-year period; and

(iii) The yields determined under this subparagraph (2) shall be adjusted so

that the weighted average of the normal yields determined for all farms in the county shall not exceed the county yield established by the Secretary.

(3) "Acreage of peanuts" means the acreage of land from which peanuts are harvested for nuts on any farm on which any peanuts are picked or threshed.

(d) *Rice*—(1) *Farm acreage allotments*—(i) *Farms tilled by producers who produced rice during period 1938-42*. The allotment for a farm tilled by a producer who participated in the production of rice in one or more of the 5 years 1938 through 1942, and who will participate in the production of rice in 1943, shall be determined on the basis of his past production of rice as reflected in the average acreage of rice for the 5 years 1938 through 1942, adjusted to the acreage on the farm adapted to the production of rice, taking into consideration crop rotation practices, soil fertility, the acreage diverted under previous agricultural conservation programs and other physical factors affecting the production of rice, including the water facilities, labor, and equipment available for the production of rice on the farm.

(ii) *Farms tilled by producers who have not produced rice since 1937*. An acreage not to exceed 3 percent of the State rice allotment shall be apportioned as farm allotments among farms tilled by producers who are participating in the production of rice in 1943 for the first time since 1937, on the basis of the applicable standards of apportionment set forth in subdivision (i), except that the rice allotment for any such farm shall not exceed 75 percent of the rice allotment that would have been made for the farm had such person(s) participated in the production of rice in one or more of the 5 years 1938 through 1942.

The sum of the rice allotments in a State shall not exceed the State rice allotment.

(2) *Normal yields*. For each farm for which a rice allotment is determined a normal yield for rice shall be determined as follows:

(i) Where reliable records of the actual average yield of rice per acre for any 5 consecutive years 1937 through 1942 are presented by the farmer or are available to the committee, the normal yield of rice for the farm shall be the average of such yields.

(ii) If for any year of such 5-year period, records of the actual average yield are not available or there was no actual yield because rice was not produced on the farm in such year, the normal yield for the farm shall be the yield which, on the basis of all available facts including the yield in the years for which data are available, weather conditions, type of soil, drainage, production practices, and general fertility of the land, the county committee determines to be the yield which was or could reasonably have been expected on the farm for such 5-year period.

(iii) If the weighted average of the normal yields for all farms in the State exceeds the average yield per acre for the State during the 5 years 1938 through 1942 established by the Secretary, the

normal yields for all such farms shall be reduced pro rata so that the weighted average of such normal yields shall not exceed such State average yield.

(e) *Tobacco*—(1) *Farm acreage allotment*. The State allotment for each kind of tobacco, except flue-cured and Burley, shall be allotted among farms in the State on which such kind of tobacco was produced in one or more of the 5 years 1938 through 1942, on the basis of the acreage allotments determined for the farms for 1942, with such adjustments as will take into account changes since 1940 in the past acreage of tobacco (harvested and diverted); land, labor, and equipment available for the production of tobacco; crop-rotation practices; the soil and other physical factors affecting the production of tobacco; and adjustments for small farms.

In the case of flue-cured and Burley tobacco, for farms on which such kind of tobacco was produced in one or more of the 5 years 1938 through 1942, the allotments for 1943 shall be determined by increasing or decreasing each 1942 farm allotment by the same percentage by which the 1943 national marketing quota for the respective kind of tobacco is increased or decreased from the 1942 national marketing quota; *Provided*, That no farm allotment shall be reduced by more than 10 percent below the 1940 farm allotment; no flue-cured allotment shall be decreased below the smaller of 2 acres or the 1940 allotment; and no Burley allotment shall be decreased below the larger of (i) the 1939 allotment if such allotment was one-half acre, or less, or (ii) the 1940 allotment, if such allotment was not over 1 acre, except that if the 1939 allotment was more than one-half acre and the 1940 allotment was less than one-half acre, the 1943 allotment shall be one-half acre.

In the case of each kind of tobacco for which marketing quotas are in effect for 1943 an acreage not in excess of 2 percent of the total acreage allotted to all farms in each State for 1940 shall be available to county committees for making adjustments in accordance with marketing quota regulations prescribed by the Secretary. The county committees may use this acreage to increase farm allotments where such increase is necessary in order to make them comparable with allotments determined for other farms which are similar with respect to past acreage of tobacco (harvested and diverted); land, labor, and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco.

For any farm for which the 1942 tobacco allotment was reduced because of a marketing quota violation, the original 1942 allotment as determined before such reduction shall be used in determining the 1943 allotment.

Notwithstanding any foregoing provision, any tobacco allotment may, in the case of violation of the marketing quota regulations for the 1942-43 marketing year, be decreased by the percentage which the amount of tobacco involved in the marketing quota violation is of the farm marketing quota.

Allotments shall be determined for farms on which tobacco is produced in 1943 for the first time since 1937 insofar as acreage is available from the national reserve for such farms, on the basis of the tobacco-producing experience of the farm operators; land, labor, and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco. The allotment determined for any such farm shall not exceed 75 percent of the allotment determined for a farm which is similar with respect to land, labor, and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco.

(2) *Normal yields.* For each farm for which a tobacco allotment is determined or a deduction with respect to tobacco is to be computed, a normal yield for tobacco shall be determined as follows:

(i) The normal yield for any farm on which tobacco was produced in one or more of the 5 years 1938 through 1942 shall be determined on the basis of the normal yield determined for the farm for 1942, or on the basis of the yields of tobacco made on the farm in the 5 years 1937 through 1941, taking into consideration the soil and other physical factors affecting production of tobacco on the farm and the yields obtained on other farms in the locality which are similar with respect to such factors.

(ii) The normal yield for any farm on which tobacco is produced in 1943 for the first time since 1937 shall be that yield per acre which is fair and reasonable for the farm as compared with yields for other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar.

(iii) The weighted average of the normal yields for all farms in each county shall not exceed the yield established for the county by the Secretary.

(f) *Wheat.*—(1) *County acreage allotments.* County allotments shall be determined by distributing the State allotment, less reserves for adjustments, among the counties in the State pro rata on the basis of the acreage seeded for the production of wheat plus the acreage diverted in such counties during the 10 years 1932 through 1941, with appropriate adjustments for abnormal weather conditions and trends in acreage.

(2) *Farm acreage allotments.* Farm allotments shall be determined for farms on which wheat was planted for harvest in one or more of the 3 years 1940 through 1942 and for which the allotment is 10 acres or more, on the basis of tillable acreage and crop-rotation practices, as reflected in the usual acreages of wheat on the farms, with adjustments of not to exceed 25 percent on account of the types of soil and topography. In areas recommended by the State committee and approved by the Agricultural Adjustment Agency, a figure below 10 acres may be set as the minimum above which allotments will be determined for all farms. An allotment will be determined for any farm for which the allotment would be less than the approved minimum upon written re-

quest of the operator before a date to be specified by the regional director upon recommendation by the State committee.

The usual acreage shall be the average annual acreage of wheat seeded for harvest plus the acreage diverted from the production of wheat during three or more consecutive years of the 8 years 1935 through 1942. Years in which the acreage seeded to wheat was abnormally low due to extreme flood or drought; was not typical of the farm for 1943 due to customary crop-rotation practices, a change in such practices, or a change in the acreage of cropland on the farm; or was abnormally high due to failure of crops other than wheat, shall be eliminated in determining the usual acreage. If all the years of the period are either thus eliminated or eliminated for lack of data, the usual acreage shall be appraised by comparing the farm with other farms in the community or county which are similar with respect to crop-rotation practices, tillable acres, type of soil, and topography, and for which usual acreages have been determined, or by the ratio of wheat acreage to cropland in the community or in the county. For those farms for which the usual acreage used in determining 1942 wheat allotments satisfy the foregoing conditions, the 1942 usual wheat acreages may be used in determining 1943 wheat allotments, taking into consideration the seeded wheat acreages (adjusted for participation) in the next successive year after the last year used in determining the 1942 usual acreage, if necessary to obtain the proper relationship between farms. Usual acreages may be adjusted, if not representative for 1943, by comparison with a farm or group of farms for which the usual acreages are representative for 1943. Not less than 97 percent of the county allotment, less appropriate reserves, shall be apportioned on the basis of the usual acreages so determined.

Allotments for farms on which wheat will be seeded for harvest in 1943 but on which wheat was not seeded for harvest in any of the 3 years 1940 through 1942 will be determined on the basis of tillable acreage, crop rotation practices, and types of soil and topography taking into consideration the producer's farming plans for 1943. Not more than 3 percent of the county wheat allotment shall be apportioned to such farms in a county.

The wheat allotment for any farm shall compare with the wheat allotment determined for other farms in the same community which are similar with respect to the foregoing factors, and the wheat allotments determined for farms in a county shall not exceed their proportionate share of the county allotment.

(3) *Normal yields.* For each farm for which a wheat allotment is determined or a deduction with respect to wheat is to be computed, a normal yield shall be determined as follows:

(i) Where reliable records of the actual average yields per acre of wheat for the 10 years 1932 through 1941 are presented by the farmer or are available to

the committee, the normal yield for the farm shall be the average of such yields adjusted for trends and abnormal weather conditions.

(ii) If for any year of such 10-year period reliable records of the actual average yield are not available or there was no actual yield on the farm in such year, the normal yield for the farm shall be the yield which, on the basis of all available facts, including the yield for years for which data are available, weather conditions, type of soil, drainage, production practices, and general fertility of the land, the county committee determines to be the yield which was or could reasonably have been expected on the farm for such 10-year period.

(iii) The yields determined under subdivision (ii) of this subparagraph (3) shall be adjusted so that the weighted average of the normal yields for all farms in the county shall not exceed the county yield established by the Secretary.

(4) "Non-wheat allotment farm" means any farm:

(i) For which no wheat allotment is determined;

(ii) For which a wheat allotment of 15 acres or less is determined and the acreage planted to wheat exceeds the allotment by 10 percent or more;

(iii) From which no wheat is sold from the farm and the acreage of wheat normally harvested for any purpose after reaching maturity is not in excess of 3 acres per family living on the farm and having an interest in the wheat crop grown thereon and the county committee approves, in accordance with instructions issued by the Agricultural Adjustment Agency, the classification of such farm for the purposes of the 1943 program as a non-wheat allotment farm; or

(iv) For which a wheat allotment of more than 15 acres is determined and on which wheat is normally planted for green manure, hay, or pasture, or will be planted for such use in 1943, and the county committee approves, in accordance with instructions issued by the Agricultural Adjustment Agency, the classification of such farm for the purposes of the 1943 program as a non-wheat allotment farm.

(5) "Acreage planted to wheat" means:

(i) Any acreage of land devoted to seeded wheat except when such crop is seeded in a mixture designated by the Agricultural Adjustment Agency upon recommendation of the State Committee as a mixture which may reasonably be expected to produce a crop containing such proportions of plants other than wheat that the crop cannot be harvested as wheat for grain or seed;

(ii) Any acreage of volunteer wheat which reaches maturity, except that on any farm on which the acreage seeded to wheat does not exceed the wheat allotment, the acreage of wheat in excess of the wheat allotment shall not be considered as acreage planted to wheat, if the wheat produced on the farm which is subject to marketing quota penalty is placed in farm storage or delivered to the Secretary pursuant to marketing quota regulations; and

(iii) Any acreage of land which is seeded to a mixture containing wheat designated under subdivision (i) above on which the crops other than wheat fail to reach maturity and the wheat reaches maturity:

Provided, That all or any part of any wheat acreage destroyed by causes beyond the control of the operator may be replaced with an equal acreage of wheat seeded after such destruction or by an equal acreage of volunteer wheat, and the acreage so replaced shall not be regarded as acreage planted to wheat.

(g) *Miscellaneous*—(1) *Correction of errors*. Notwithstanding any other provision of this section, where the Agricultural Adjustment Agency finds that an error in a county or State office resulted in an allotment or yield for a farm which is substantially less than that which would otherwise have been determined, the correction of such allotment or yield may be authorized without requiring a redetermination of other farm allotments or yields in the county, unless such error has resulted in farm allotments or yields for other farms in the county which are substantially higher than they otherwise would have been.

(2) *Errors in measurement*. Where a farmer relied solely upon the measured acreage furnished to him in writing by the county committee in planning his 1943 farming operations or in adjusting his 1943 crop acreages, such measured acreage may be used in determining compliance with the provisions of the 1943 program even though it subsequently proves to be incorrect.

(3) *Erroneous notice of acreage allotments*. Notwithstanding the deduction provisions of § 701.403, in any case where, through error in a county or State office, the producer was officially notified of an allotment for a commodity larger than the finally approved allotment for that commodity and the county and State committees find, if the notice was in writing, or the county and State committees, with the approval of the regional director, find, if the notice was not in writing, that the producer, acting in good faith upon the information contained in the erroneous notice, planted an acreage to the commodity in excess of the finally approved allotment, the producer will not be considered to have exceeded the allotment for such commodity unless he planted an acreage to the commodity in excess of the acreage stated in the notice erroneously issued, and the deduction for excess acreage will be made only with respect to the acreage in excess of that stated in the notice erroneously issued.

(4) *Reallocation of allotments due to displacement of producers*. Except as provided in the next two succeeding paragraphs, the crop allotment for any land which is removed from agricultural production because of acquisition by a State or Federal agency or for use in connection with the national war effort shall be available to the State committee for use in providing equitable allotments for farms on which the crop was grown in one or more of the three years 1940 through 1942 and which are operated by persons who were producers of such crop

on the land so removed from agricultural production. Insofar as possible the allotments for farms operated by such persons shall be comparable to the allotments for other farms in the locality taking into consideration the allotments for the land removed from agricultural production.

In the case of cotton and wheat, the allotment determined, or which would have been determined, for any land acquired in 1940 or thereafter by any Federal agency for war purposes shall be placed in a State pool and shall be used only for making equitable allotments for farms owned or acquired by owners dispossessed by a Federal agency because of acquisition of the farm for war purposes. The allotment made for any such farm, including farms on which such crop was not planted during any of the three years 1940 through 1942, shall compare with the allotments for such crops established for other farms in the same area which are similar except for the past acreage of such crop, taking into consideration the character and adaptability of the soil and other physical facilities affecting the production of the crop.

In the case of tobacco, the allotment determined, or which would have been determined, for any land acquired in 1940 or thereafter by any Federal agency for war purposes shall be placed in a State pool and shall be used only for making equitable allotments for farms owned or acquired by owners dispossessed by a Federal agency because of acquisition of the farm for war purposes. Upon application to the local committee, any person so dispossessed shall be entitled to have an allotment for any one of the farms owned or acquired by him equal to an allotment which would have been made to such farm plus the allotment which would have been made to the farm acquired by the Federal agency; *Provided*, That such allotment shall not exceed 50 percent of the acreage of cropland in the farm in the case of flue-cured tobacco, and 20 percent of the acreage of cropland in the farm in the case of other kinds of tobacco: *Provided further*, That this paragraph shall not apply so long as there is any marketing quota penalty due and unpaid, or a failure to account for the disposition of tobacco produced on the farm acquired by a Federal agency, or if the allotment established for such farm in 1943 would have been reduced because of the false or improper identification of tobacco produced on or marketed from each farm.

(h) *Determination of grazing capacities*. In the North Central and Western Regions, and in Texas and Oklahoma in the Southern Region, there shall be determined a grazing capacity for range land and noncrop open pasture land in accordance with instructions issued by the Agricultural Adjustment Agency. In determining grazing capacity, consideration shall be given to the following: composition, palatability, and density of forage growth; climatic fluctuations; distribution and character of watering facilities; topographic and cultural features; presence or absence of rodents and poisonous plant infestations; and number and classes of livestock previ-

ously carried. In counties where individual grazing capacities are determined the average of the individual grazing capacities determined for all range land and noncrop open pasture land in a county shall not exceed the county average grazing capacity limit determined by the Agricultural Adjustment Agency on the basis of available statistics.

§ 701.402 *War crop goals*—(a) *National and state goals*. National and State war crop goals will be established by the Secretary. In any area war crops shall include those crops for which the Agricultural Adjustment Agency determines that the 1943 goal is substantially greater than would normally be produced in the area.

(b) *County goals*. County war crop goals shall be determined by the State Committee by distributing the State goals among counties in the State in accordance with the instructions issued by the Agricultural Adjustment Agency, on the basis of the adaptability of the soil, availability of cropland, equipment, labor, and the acreage and production of each war crop in the county during recent years and other related factors. The sum of the county goals for any war crop shall not be less than the corresponding State goal.

(c) *Farm goals*. Farm war crop goals shall be determined by the county committee with the assistance of local committees by distributing the county goals in accordance with instructions issued by the Agricultural Adjustment Agency, on the basis of adaptability of the soil, availability of cropland, equipment, labor, and the acreage and production of each war crop on the farm during recent years, and other related factors. The sum of the farm goals for each war crop shall not be less than the corresponding county goal except in counties where the Agricultural Adjustment Agency determines that the county goal is higher than it would be except for the assumption that war crops will be substituted for special crops. In such counties the sum of the farm goals for each war crop and the acreage of such war crop which it was assumed would be substituted for special crops shall not be less than the corresponding county goal.

§ 701.403 *Production adjustment allowance and deductions*—(a) *The farm production adjustment allowance*. The farm production adjustment allowance shall be the sum of the following:

(1) *Corn on a corn-allotment farm*. ---- cents per bushel of the normal yield of corn for the farm for each acre in the corn allotment.

(2) *Cotton*. ---- cents per pound of the normal yield of cotton for the farm for each acre in the cotton allotment.

(3) *Peanuts*. \$---- per ton of the normal yield of peanuts for the farm for each acre in the peanut allotment.

(4) *Rice*. ---- cents per 100 pounds of the normal yield of rice for the farm for each acre in the rice allotment.

(5) *Tobacco*. The following number of cents per pound of the normal yield per acre of tobacco for the farm for each acre in the tobacco allotment:

Burley.....
 Blue-cured.....
 Dark air-cured.....
 Fire-cured.....
 Virginia sun-cured.....
 Cigar-filler, Type 41.....
 Cigar-filler and binder.....
 (except types 41 and 45)
 Georgia-Florida, Type 62.....

(6) *Wheat on a wheat-allotment farm.* — cents per bushel of the normal yield of wheat for the farm for each acre in the wheat allotment.

(b) *Deductions for failure to have acreage equal to 90 percent of allotted acreage.* Deductions for failure to have an acreage of any special crop equal to 90 percent of the allotment for such crop shall not exceed that part of the farm production adjustment allowance computed for that crop. No deduction shall be made where the county committee finds, in accordance with instructions issued by the Agricultural Adjustment Agency, that the failure to have an acreage of the crop equal to 90 percent of the allotment is due to flood, drought, hail, insects, or plant bed diseases. For the purpose of this provision any acreage of war crops in excess of 90 percent of the sum of the war crop goals may be substituted acre for acre for any special crop and in areas designated by the Agricultural Adjustment Agency any acreage of feed crops designated by the Agricultural Adjustment Agency in excess of the usual acreage may be substituted acre for acre for any acreage of wheat. If more than one special crop on a farm is subject to a deduction under this provision, any substitution of feed crop acreage for wheat acreage shall be made first. Thereafter the acreage of war crops available for substitution shall be substituted for the special crop or crops which will result in the largest payment for the farm. These deductions shall be determined as follows:

(1) *Corn on a corn-allotment farm.* Five times the payment rate for each acre by which the acreage planted to corn is less than 90 percent of the corn allotment.

(2) *Cotton.* Five times the payment rate for each acre by which the acreage planted to cotton is less than 90 percent of the cotton allotment.

(3) *Peanuts.* Five times the payment rate for each acre by which the acreage of peanuts is less than 90 percent of the peanut allotment.

(4) *Rice.* Five times the payment rate for each acre by which the acreage planted to rice is less than 90 percent of the rice allotment.

(5) *Tobacco.* Five times the payment rate for each acre by which the harvested acreage of each type of tobacco is less than 90 percent of the respective tobacco allotment.

(6) *Wheat on a wheat allotment farm.* Five times the payment rate for each acre by which the acreage planted to wheat is less than 90 percent of the wheat allotment.

(c) *Deduction for failure to achieve 90 percent of the sum of the war crop goals.* The deduction for failure to achieve 90 percent of the sum of the war crop goals shall be made only from the farm production adjustment allowance.

The deduction shall be limited to that portion of the farm production adjustment allowance remaining after the deductions provided for in paragraph (b) above have been made. No deduction shall be made where the county committee finds, in accordance with instructions issued by the Agricultural Adjustment Agency, that the failure to achieve 90 percent of the sum of the war crop goals is due to flood or drought. The deduction will be \$15.00 for each acre by which the sum of the acreage planted to war crops on the farm is less than 90 percent of the sum of the war crop goals for the farm.

(d) *Deductions for exceeding allotments.* Deductions for exceeding allotments shall be made from the remainder of the farm production adjustment allowance after any deductions provided for in paragraphs (b) and (c) above have been made. If the deductions for exceeding allotments are in excess of the remainder of the farm production adjustment allowance, each person's share of the excess after proration of net deductions shall be deducted from such person's share in the production adjustment payment for any other farm in the county, and may be deducted from such person's share of the production adjustment payment for any other farm in the State, if the State committee finds that the crops grown on the farm or farms with respect to which such deductions are computed substantially offset the contribution to the program made on such other farm or farms. These deductions shall be determined as follows:

(1) *Corn—(i) Corn on a corn allotment farm.* Ten times the payment rate for each acre planted to corn in excess of the corn allotment. The deduction for excess corn acreage shall not exceed that part of the farm production adjustment allowance computed with respect to corn plus 10 times the payment rate for each acre planted to corn in excess of — percent of the corn allotment.

(ii) *Corn on a non-corn-allotment farm.* Ten times the payment rate for each acre planted to corn in excess of 15 acres or — percent of the corn allotment, whichever is larger.

(2) *Cotton.* Ten times the payment rate for each acre planted to cotton in excess of the cotton allotment.

(3) *Tobacco.* Ten times the payment rate for each acre of tobacco harvested in excess of the applicable tobacco allotment.

(4) *Wheat—(i) Wheat on a wheat allotment farm.* Ten times the payment rate for each acre planted to wheat on the farm in excess of the wheat allotment.

(ii) *Wheat on a non-wheat-allotment farm.* Ten times the payment rate for each acre of wheat on the farm harvested for grain, or for any other purpose after reaching maturity, in excess of the larger of 15 acres or the wheat allotment, or in areas designated by the Agricultural Adjustment Agency in excess of the largest of 15 acres, the wheat allotment, or if no wheat is sold from the farm, three acres per family living on the farm and

having an interest in the wheat crop grown thereon.

(e) *Miscellaneous deductions.* The following miscellaneous deductions shall be regarded as personal deductions and shall be made from any payment with respect to the same or any other farm determined for the person responsible therefor. These deductions shall be made after payments have been increased in accordance with the provisions of § 701.406 hereof and after deductions for county association expenses as provided in § 701.408 hereof.

(1) *Deduction for failure to prevent wind or water erosion.* \$1.00 for each acre of land in any area designated by the Agricultural Adjustment Agency as subject to serious wind or water erosion hazards with respect to which there are not adopted in 1943 methods recommended by the county committee and approved by the State committee for the prevention of wind or water erosion, or both.

(2) *Deduction for breaking up permanent vegetative cover.* \$3.00 for each acre of native sod, or any other land on which a permanent vegetative cover has been established, broken out during the 1943 program year in any area designated by the Agricultural Adjustment Agency as an area subject to serious wind erosion unless the acreage was broken out with the approval of the county committee for the planting of forest trees or the county committee determines in accordance with standards established by the State committee with approval of the Agricultural Adjustment Agency that the land broken out is suited to the continuing production of cultivated crops and will not become a wind erosion hazard to the community.

(3) *Deduction for failure to maintain practices under previous programs.* Where the county committee, in accordance with instructions of the State committee, determines that any terrace constructed, water development established, forest trees planted, or pasture established under any previous agricultural conservation program are not maintained in accordance with good farming practices; that any seeding of perennial legumes or grasses is destroyed contrary to good farming practice; or that the effectiveness of any soil-building practice carried out under any previous program is destroyed during the 1943 program year contrary to good farming practice, a deduction shall be made equal to the payment that would be made under the 1943 program for a similar amount of such practice.

§ 701.404 *Production practice goals, allowances, practices and rates of payment—(a) National goal.* The national goal is the conservation of farm and range land, the restoration, insofar as is practicable, of a permanent vegetative cover on land unsuited to the continued production of cultivated crops, the carrying out of production practices that will conserve and improve soil fertility, will promote conservation and better utilization of water, will conserve and increase range and pasture forage, will prevent wind and water erosion, and will

increase production of agricultural commodities required in the war effort.

(b) *County goals.* County goals may be established for particular production practices which are most needed in the county in order to conserve and improve soil fertility, improve range and pasture land, prevent wind and water erosion, promote conservation and better utilization of water and increase the production of agricultural commodities required in the war effort. The county committee, with the approval of the State committee, may designate those practices which will be approved for payment in the county in order that the production practice allowance will be used most effectively to bring about added conservation and to secure the carrying out of production practices most needed on farms in the county.

The county committee, with the approval of the State committee, may specify for any group of farms in the county a proportion of the production practice allowance which may be earned only by carrying out designated production practices which are most needed and are not routine.

(c) *Farm goals.* Insofar as practicable, the county committee shall determine for individual farms practices to be carried out which are not routine farming practices on the farm, but which are needed on the farm in order to conserve and improve soil fertility and prevent wind and water erosion and which will tend to accomplish the goals established for the county with respect to particular production practices.

(d) *Area production practice allowance.* The production practice allowance for any area shall be the total amount which the Agricultural Adjustment Agency estimates would be earned in the area if the production practice allowance for each farm in the area were determined in accordance with the formula for determining farm soil-building allowances contained in the 1942 Agricultural Conservation Program Bulletin.

(e) *Farm production practice allowance.* The production practice allowance is the maximum amount of payment that may be made for carrying out production practices on the farm. With prior approval of the State committee, landlords, tenants or sharecroppers in any local area may combine by written agreement all or any part of the production practice allowances for their farms for the performance of any practices which the State committee determines are necessary to conserve the agricultural resources of the community and such practices must be carried out on one or more of the farms included in the agreement.

(1) *Farms in the North Central Region.* A preliminary production practice allowance shall be determined for farms in the North Central Region and shall be the sum of the following:

(i) 75 cents per acre of cropland on the farm in excess of the acreage allotments determined for the farm.

(ii) \$2.00 per acre of commercial orchards on the farm.

(iii) \$1.00 per acre of the normal commercial vegetable acreage on the farm.

(iv) A county flat rate per acre of noncrop open pasture land on the farm, based upon 2 cents per acre of such pasture land in the county plus 90 cents for each animal of grazing capacity but not less than 8 cents times the number of such acres, or 8 cents times 2,000 acres, whichever is smaller.

Provided, however, That the preliminary production practice allowance for any farm shall not be less than \$20.00.

The county committee may increase or decrease the preliminary production practice allowance determined for the farm by not more than 30 percent on the basis of the type and degree of erosion, the topography of the land, the type of soil, the type of farm, the acreage in war crop goals, the need for maintaining and increasing soil fertility, the need for and practicability of water conservation, and the availability of labor, equipment, and material required in carrying out needed practices. The sum of the preliminary production practice allowances for all farms in the county after making these adjustments shall not exceed an amount determined by the State committee with the approval of the regional director, and for all counties in the region, shall not exceed the sum of the preliminary production practice allowances.

The final production practice allowance for any farm shall be the adjusted preliminary production practice allowance for the farm plus the smaller of the amount earned by planting trees or \$15.00.

(2) *Farms in the Western Region.* A preliminary production practice allowance shall be determined for farms in the Western Region and shall be the sum of the following:

(i) 75 cents per acre of cropland on the farm in excess of the acreage allotments determined for the farm.

(ii) \$2.00 per acre of commercial orchards on the farm.

(iii) \$1.00 per acre of commercial vegetables on the farm in 1942.

(iv) 8 cents per acre for each acre of grazing land on the farm, up to and including 2000 acres, plus 5 cents per acre for each acre of grazing land in excess of 2000 acres.

(v) 30 cents per acre of mountain meadowland (applicable only in counties designated by the regional director as counties in which erosion-control practices are necessary and effective in promoting mountain meadowland conservation).

Provided, however, That the preliminary production practice allowance for any farm shall not be less than \$20.00.

In determining the final production practice allowance for any farm, the county committee may increase or decrease the preliminary production practice allowance determined for the farm in accordance with the foregoing factors by not more than 30 percent on the basis of the type and degree of erosion, the topography of the land, the type of soil, the type of farming, the acreage in war crop goals, the need for maintaining and

increasing soil fertility, the need for and practicability of water conservation, and the availability of labor, equipment and material required in carrying out needed practices. The sum of the final production practice allowance for all farms in the county shall not exceed an amount determined by the State committee with the approval of the regional director, and for all counties in the region, shall not exceed the sum of the preliminary production practice allowances.

(3) *Farms in the Northeast Region.* In the Northeast Region a production practice allowance will be established only for farms on which in 1942 there are at least 5 animal units, at least 300 pullets ranged, at least 3 acres of vegetables, potatoes, tobacco, small fruits, and commercial orchards, or at least 10 acres of cropland and commercial orchards. "Animal unit," for the purpose of this subparagraph (3), means 1 dairy or beef animal over 2 years, 2 dairy or beef calves under 2 years, and 5 goats, sheep or lambs. The production practice allowance for any farm shall be the sum of the following:

(i) The allowance for liming materials, phosphate, and potash will be the sum of the following:

(a) The larger of \$2.50 per animal unit belonging on the farm at the time of enrollment, if there are on the farm at least 5 animal units, or \$2.50 per 100 pullets ranged in 1942, not to exceed \$5.00 per acre of pullet range used on the farm in 1942, if at least 300 pullets were ranged.

(b) 40 cents per acre of cropland and commercial orchards in excess of 5 acres, for each unit used in computing the allowance under inferior subdivision (a), if there are in the farm at least 10 acres of cropland and commercial orchards.

(c) 80 cents per acre of vegetables, potatoes, small fruits, and commercial orchards on the farm in 1942, if there were at least 3 acres of one or more of these on the farm.

(ii) The allowance for other approved practices shall be the extent of such practices times the approved rates therefor.

(4) *Farms in the East Central Region.* The production practice allowance for farms in the East Central Region shall be the sum of the following:

(i) 75 cents per acre of cropland on the farm, exclusive of the average acreage of cropland subject to overflow in counties designated by the State committee and approved by the regional director.

(ii) 40 cents per acre of fenced noncrop open pasture land on the farm in excess of one-half the acreage of cropland. The pasture land must be capable of maintaining during the normal pasture season at least one animal unit for each 5 acres.

(iii) \$2.00 per acre of commercial orchards on the farm.

(iv) \$1.00 per acre of commercial vegetables grown on the farm in 1940 if the acreage grown was 3 acres or more.

Provided, however, That if the sum of the amounts determined on the basis

of the foregoing factors for any farm is less than \$20.00, the county committee may adjust the production practice allowance for the farm upward to an amount not in excess of \$20.00 if it determines that the farm will be operated in 1943; the practices to be performed thereon in 1943 will contribute toward sound conservation and the national war effort; and the land, labor, and equipment available on the farm are sufficient to permit the carrying out of practices in a workmanlike manner, except that in no case shall the allowance as adjusted exceed the sum of \$3.00 per acre of cropland and \$1.50 per acre of noncrop open pasture land.

(5) *Farms in the Southern Region.* The production practice allowance for any farm in the Southern Region shall be the sum of the items listed under the name of the State in which the farm is located: *Provided*, That for any farm with respect to which the sum of the production adjustment allowance and the amounts computed for the production practice allowance is less than \$20.00, the production practice allowance shall be increased by the amount of the difference.

Alabama

(i) \$1.00 per acre of cropland on the farm.

(ii) 25 cents per acre of fenced noncrop open pasture land on the farm in 1942.

(iii) \$1.50 per acre of commercial orchards (excluding tung orchards) on the farm in 1942.

(iv) The smaller of \$5.00 per acre of tung orchards (excluding old nonbearing orchards) or the amount earned by carrying out in tung orchards production practices designated by the regional director and approved by the Agricultural Conservation and Adjustment Administration.

Arkansas

(i) The allowance for establishing and improving permanent pasture, developing a continuous system of grazing, contour furrowing pasture land, construction of terraces and outlets, and establishing vegetative waterways, shall be the extent of such practices times the approved rates therefor.

(ii) The allowance for other practices shall be the sum of the following:

(a) \$1.00 per acre of cropland on the farm in excess of the sum of the special crop allotments.

(b) \$2.00 per acre of commercial orchards on the farm in 1942.

(c) 15 cents per acre of fenced noncrop open pasture land on the farm in 1942.

Florida

(i) The allowance for establishing a permanent vegetative cover by planting sod pieces, seeding permanent pasture, construction of terraces, and green manure and cover crops of legumes and winter nonlegumes following peanuts harvested for nuts in 1942, shall be the extent of such practices times the approved rates therefor.

(ii) The allowance for other practices shall be the sum of the following:

(a) \$1.00 per acre of cropland on the farm in excess of the sum of the special crop allotments, the cropland in commercial orchards, the 1941 acreage of commercial vegetables, and the 1943 acreage of sugarcane for sugar.

(b) \$2.00 per acre of commercial orchards (excluding tung orchards) on the farm in 1942.

(c) \$1.50 per acre of commercial vegetables grown on the farm in 1941.

(d) 20 cents per acre of fenced noncrop open pasture land on the farm in 1942 in excess of one-half of the number of acres of cropland.

(e) The smaller of \$5.00 per acre of tung orchards (excluding old nonbearing orchards) or the amount earned by carrying out in tung orchards production practices designated by the regional director and approved by the Agricultural Conservation and Adjustment Administration.

Georgia

(i) The allowance for establishing a stand of lespedeza sericea; establishing a permanent vegetative cover of kudzu; establishing a permanent pasture by sodding and seeding; establishing a permanent pasture by seeding; clearing, cleaning up, and preparing for the establishment of permanent pasture; and construction of standard terraces, shall be the extent of such practices times the approved rates therefor.

(ii) The allowance for other practices shall be the sum of the following:

(a) 70 cents per acre of cropland on the farm.

(b) \$1.00 per acre of commercial orchards (excluding tung orchards) on the farm in 1942.

(c) The smaller of \$5.00 per acre of tung orchards (excluding old nonbearing orchards) or the amount earned by carrying out in tung orchards production practices designated by the regional director and approved by the Agricultural Conservation and Adjustment Administration.

(d) 25 cents per acre of fenced noncrop open pasture land on the farm in 1942 in excess of one-half of the number of acres of cropland.

Louisiana

(i) 90 cents per acre of cropland on the farm in excess of the sum of the special crop allotments, the cropland in commercial orchards, and the 1943 acreage of sugarcane for sugar.

(ii) \$2.00 per acre of commercial orchards (excluding tung orchards) on the farm in 1942.

(iii) 25 cents per acre of fenced noncrop open pasture land on the farm in 1942 in excess of one-half of the number of acres of cropland.

(iv) \$1.00 per acre of commercial vegetables grown on the farm in 1942 where the acreage was 3 acres or more.

(v) The smaller of \$15.00 or the amount earned by carrying out designated pasture practices.

(vi) The smaller of \$5.00 per acre of tung orchards (excluding old nonbearing orchards) or the amount earned by carrying out in tung orchards production

practices designated by the regional director and approved by the Agricultural Conservation and Adjustment Administration.

Mississippi

(i) The allowance for establishing permanent pasture, construction of terraces, and establishing permanent waterways shall be the extent of such practices times the approved rates therefor.

(ii) The allowance for other practices shall be the sum of the following:

(a) 70 cents per acre of cropland on the farm in excess of the sum of the special crop allotments and the cropland in commercial tung orchards and young nonbearing tung orchards.

(b) 15 cents per acre of fenced noncrop open pasture land.

(c) The smaller of \$5.00 per acre of tung orchards (excluding old nonbearing orchards) or the amount earned by carrying out in tung orchards production practices designated by the regional director and approved by the Agricultural Conservation and Adjustment Administration.

(d) The smaller of \$15.00 or the amount earned by planting forest trees.

Oklahoma

(i) The allowance for construction of standard terraces and establishing a permanent pasture shall be the extent of such practices times the approved rates therefor.

(ii) The allowance for other practices shall be the sum of the following:

(a) 70 cents per acre of cropland on the farm in excess of the sum of the special crop allotments and the cropland in commercial orchards.

(b) For each acre of noncrop open pasture land on the farm (or ranch):

8 cents per acre in the following counties: Beaver, Beckham, Cimarron, Ellis, Greer, Harmon, Harper, Roger Mills, Texas, and Woodward;

9 cents per acre in the following counties: Alfalfa, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Jackson, Kiowa, Major, Tillman, Washita, and Woods;

10 cents per acre in the following counties: Atoka, Canadian, Carter, Cleveland, Coal, Garfield, Garvin, Grady, Grant, Johnston, Kingfisher, Lincoln, Logan, McClain, Murray, Oklahoma, Payne, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Seminole, and Stephens;

11 cents per acre in the following counties: Adair, Bryan, Cherokee, Choctaw, Craig, Creek, Delaware, Haskell, Hughes, Jefferson, Kay, Latimer, LeFlore, Love, McCurtain, McIntosh, Marshall, Mayes, Muskogee, Noble, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Rogers, Sequoyah, Tulsa, Wagoner, and Washington.

(c) \$2.00 per acre of commercial orchards on the farm in 1942.

(d) \$1.00 per acre of commercial vegetables grown on the farm in 1942 where the acreage was 3 acres or more.

South Carolina

(i) 50 cents per acre of cropland on the farm.

(ii) \$1.50 per acre of commercial vegetables grown on the farm in 1942 where the acreage was 3 acres or more.

(iii) \$2.00 per acre of commercial orchards on the farm in 1942.

Texas

(i) The allowance for construction of terraces shall be the extent of this practice times the approved rate therefor.

(ii) The allowance for other practices shall be the sum of the following:

(a) 75 cents per acre of cropland on the farm in excess of the sum of the special crop allotments, the acreage of cropland in commercial orchards, including all tung orchards, and the 1943 acreage of sugar beets for sugar.

(b) For noncrop open pasture and range land:

(i) For farms on which the acreage of noncrop open pasture and range land on the farm in 1942 was 1,920 acres or less:

8 cents per acre in the following counties and in all counties lying west of the counties named: Wilbarger, Foard, Knox, Haskell, Stonewall, Fisher, Scurry, Howard, Martin, Midland, Upton, Pecos, and Terrell;

9 cents per acre in the following counties: Archer, Baylor, Brooks, Callahan, Clay, Coke, Comanche, Crockett, Dimmit, Duval, Eastland, Erath, Frio, Glasscock, Irion, Jack, Jim Hogg, Jones, Kinney, LaSalle, Maverick, McMullen, Mitchell, Nolan, Palo Pinto, Reagan, Shackelford, Starr, Sterling, Stephens, Taylor, Throckmorton, Uvalde, Val Verde, Webb, Wichita, Young, Zapata, and Zavala;

10 cents per acre in the following counties: Atascosa, Bandera, Bexar, Blanco, Bosque, Brown, Burnet, Cameron, Coleman, Concho, Coryell, Edwards, Gillespie, Hamilton, Hidalgo, Hood, Jim Wells, Kendall, Kenedy, Kerr, Kimble, Lampasas, Live Oak, Llano, Mason, McCulloch, Medina, Menard, Mills, Montague, Parker, Real, Runnels, San Saba, Schleicher, Somervell, Sutton, Tom Green, Willacy, Wilson, and Wise;

11 cents per acre in the following counties and in all counties lying east of the counties named: Cooke, Denton, Tarrant, Johnson, Hill, McLennan, Bell, Williamson, Travis, Hays, Comal, Guadalupe, Gonzales, Karnes, Lee, San Patricio, Nueces, and Kleberg.

(2) For farms on which the acreage of noncrop open pasture and range land on the farm in 1942 was more than 1,920 acres—2 cents per acre of noncrop open pasture and range land plus 90 cents for each animal unit of grazing capacity established: *Provided*, That the allowance shall not be on the basis of more than one animal unit for each 10 acres of noncrop open pasture and range land and the 2-cent rate on the acreage of noncrop open pasture and range land shall not apply to more than 60 acres per animal unit of grazing capacity: *Provided, further*, That the allowance so computed shall not be less than \$160.00 for farms containing 2,000 acres or more of noncrop open pasture and range land nor less than 8 cents per acre of noncrop open pasture and range land for farms containing more than 1,920 acres but less than 2,000 acres.

(c) \$2.00 per acre of commercial orchards (excluding tung orchards) on the farm in 1942.

(d) \$1.00 per acre of commercial vegetables normally grown on the farm where the normal acreage is 3 acres or more. The 1941 acreage of commercial vegetables on the farm will be considered the normal acreage unless such acreage was reduced by flood or drought, in which case the 1941 commercial vegetable allotment will be considered the normal acreage.

(e) The smaller of \$5.00 per acre of tung orchards (excluding old nonbearing orchards) or the amount earned by carrying out in tung orchards production practices designated by the regional director and approved by the Agricultural Conservation and Adjustment Administration.

(f) *Production practices*. In any area the production practices for which payment will be made shall be those practices which are recommended by the regional director and approved by the Agricultural Conservation and Adjustment Administration as practices best adapted to achieve sound soil conservation and production of agricultural commodities required in the war effort. In order to be approved for payment, any practice shall be one which:

(1) Will control and prevent soil erosion caused by wind or water; or will maintain or increase soil fertility; or will promote conservation and better utilization of water; or will conserve and increase range and pasture forage; or will increase the production of agricultural commodities required in the war effort; and

(2) Is not a routine practice; and

(3) Will not be carried out in desired volume unless payment is made for the practice.

If one-half or more of the total cost of carrying out any practice is represented by labor, seed, trees, or other materials furnished by any State or Federal agency other than the Agricultural Adjustment Agency, no payment will be made for such practice and if less than one-half of the total cost of carrying out any practice is represented by such items, payments shall be made for one-half of such practice except that in areas designated by the Agricultural Adjustment Agency the payment for eradication or control of perennial noxious weeds shall be reduced only by the percentage of the total cost of the practice represented by these items. Labor, seed, trees, and materials furnished to a State or political subdivision of a State or an agency thereof by an agency of the same State shall not be deemed to have been furnished by any State agency within the meaning of this paragraph.

Production practices carried out with the use of equipment furnished by the Soil Conservation Service shall not, by virtue of the use of such equipment, be deemed to have been paid for in whole or in part by a State or Federal agency.

Trees purchased from a Clark-McNary Cooperative State Nursery shall not be deemed to have been paid for in whole or in part by a State or Federal agency. No payment will be made for planting trees furnished by the Forest Service

in connection with the Prairie States Forestry Project.

(g) *Rates of payment*. In any area the rate of payment for carrying out any production practice shall be the rate recommended by the regional director and approved by the Agricultural Conservation and Adjustment Administration. Approval of such rates shall be made in accordance with the following provisions:

(1) *General provisions applicable to all rates*. The rate of payment for each practice shall be determined on the basis of the estimated average cost of performing the practice; the relative need for the practice; and the familiarity of farmers with the practice.

(2) *Provisions applicable to specific types of practices*. (i) The rate of payment for practices which consist largely of the application of materials shall not exceed 85 percent of the estimated average cost of such materials determined on a farm-delivery basis.

(ii) The rate of payment for engineering and construction practices shall not exceed 75 percent of the estimated average cost of labor, materials, and use of equipment.

(iii) In the case of other practices, with the exception of those for which a higher rate of payment is justified on the basis of need for the practice in the area, or the lack of familiarity on the part of the farmers in carrying out the practice, the rates of payment shall not exceed 70 percent of the estimated average cost of performing the practice.

§ 701.405 *Division of payments and deductions*—(a) *Payments and deductions in connection with crop acreage allotments*. (1) The net payment or net deduction computed for any farm with respect to any special crop shall be divided among the landlords, tenants, and sharecroppers in the same proportion that such persons are determined by the county committee to be entitled, as of the time of harvest, to share in the proceeds (other than a fixed commodity payment) of the crop grown on the farm in 1943, or if the farm comprises two or more separately owned tracts of land, in the proportion which the county committee determines fairly reflects each person's contribution to performance with respect to the crop. This determination shall be made at the time the county committee approves the application for payment: *Provided*, That if any special crop is not grown on the farm in 1943 or the acreage of the crop is substantially reduced in 1943 because of flood, hail, draught, insects, or planted disease, the net payment computed for the crop shall be divided among the landlords, tenants, and sharecroppers in the proportion that the county committee determines such persons would have been entitled to share in the proceeds of the crop if the entire acreage in the acreage allotment for the crop had been planted and harvested in 1943: *Provided further*, That in cases where landlords, tenants, or sharecroppers after planting but prior to harvest, lose their interests in any special crop by reason of the acquisition of title to or lease of the farm for use in connection with the national

war effort, the net payment (less any compensation for the loss of payment) or the net deduction computed with respect to the crop shall be divided among such persons in the same proportion that the county committee determines that such persons would have been entitled, as of the time of harvest, to share in the proceeds of the crop except for such acquisition of title or lease.

(2) The deduction for failure to achieve 90 percent of the sum of the war crop goals shall be made prorata from the payments for crop acreage allotments after making the deductions provided for in § 701.403 (b).

(b) *Payments in connection with production practices.* The amount of net payment earned in carrying out production practices shall be paid to the landlord, tenant, or sharecropper who carried out the practices. If more than one such person contributed to the carrying out of production practices on the farm under the 1943 program, the net payment shall be divided in the proportion that the county committee determines such persons contributed to the carrying out of the practices. In making this determination, the county committee shall take into consideration the value of the labor, equipment, or material contributed by each person toward the carrying out of each soil-building practice on a particular acreage, assuming that each person contributed equally unless it is established to the satisfaction of the county committee that their respective contributions thereto were not in equal proportion.

In those areas where part of the production practice allowance is determined by the production practices carried out, a separate division of payment shall be determined for such practices and for other practices.

(c) *Proration of net deductions.* If the sum of the net special crop payments computed for all persons on a farm exceeds the sum of the net special crop deductions computed for all persons on the farm, the sum of the net special crop deductions computed for all persons on the farm shall be prorated among the persons on the farm for whom a net special crop payment is computed, on the basis of such computed net payments. If the sum of the net special crop deductions computed for all persons on a farm equals or exceeds the sum of the net special crop payments computed for all persons on the farm, no special crop payment will be made with respect to the farm and the amount of the net special crop deductions in excess of the net special crop payments shall be prorated among the persons on the farm for whom a net special crop deduction is computed, on the basis of such computed net deductions.

§ 701.406 *Increase in small payments.* The net payment computed under §§ 701.403, 701.404, and 701.405 exclusive of the miscellaneous deductions in § 701.403 (f) for any person with respect to any farm shall be increased as follows:

(a) Any payment amounting to 71 cents or less shall be increased to \$1;

(b) Any payment amounting to more than 71 cents but less than \$1 shall be increased by 40 percent;

(c) Any payment amounting to \$1 or more shall be increased in accordance with the following schedule:

Amount of payment computed:	Increase in payment
\$1.00 to \$1.99	\$0.40
\$2.00 to \$2.99	.80
\$3.00 to \$3.99	1.20
\$4.00 to \$4.99	1.60
\$5.00 to \$5.99	2.00
\$6.00 to \$6.99	2.40
\$7.00 to \$7.99	2.80
\$8.00 to \$8.99	3.20
\$9.00 to \$9.99	3.60
\$10.00 to \$10.99	4.00
\$11.00 to \$11.99	4.40
\$12.00 to \$12.99	4.80
\$13.00 to \$13.99	5.20
\$14.00 to \$14.99	5.60
\$15.00 to \$15.99	6.00
\$16.00 to \$16.99	6.40
\$17.00 to \$17.99	6.80
\$18.00 to \$18.99	7.20
\$19.00 to \$19.99	7.60
\$20.00 to \$20.99	8.00
\$21.00 to \$21.99	8.20
\$22.00 to \$22.99	8.40
\$23.00 to \$23.99	8.60
\$24.00 to \$24.99	8.80
\$25.00 to \$25.99	9.00
\$26.00 to \$26.99	9.20
\$27.00 to \$27.99	9.40
\$28.00 to \$28.99	9.60
\$29.00 to \$29.99	9.80
\$30.00 to \$30.99	10.00
\$31.00 to \$31.99	10.20
\$32.00 to \$32.99	10.40
\$33.00 to \$33.99	10.60
\$34.00 to \$34.99	10.80
\$35.00 to \$35.99	11.00
\$36.00 to \$36.99	11.20
\$37.00 to \$37.99	11.40
\$38.00 to \$38.99	11.60
\$39.00 to \$39.99	11.80
\$40.00 to \$40.99	12.00
\$41.00 to \$41.99	12.10
\$42.00 to \$42.99	12.20
\$43.00 to \$43.99	12.30
\$44.00 to \$44.99	12.40
\$45.00 to \$45.99	12.50
\$46.00 to \$46.99	12.60
\$47.00 to \$47.99	12.70
\$48.00 to \$48.99	12.80
\$49.00 to \$49.99	12.90
\$50.00 to \$50.99	13.00
\$51.00 to \$51.99	13.10
\$52.00 to \$52.99	13.20
\$53.00 to \$53.99	13.30
\$54.00 to \$54.99	13.40
\$55.00 to \$55.99	13.50
\$56.00 to \$56.99	13.60
\$57.00 to \$57.99	13.70
\$58.00 to \$58.99	13.80
\$59.00 to \$59.99	13.90
\$60.00 to \$185.99	14.00
\$186.00 to \$190.99	(¹)
\$200.00 and over	(²)

¹ Increase to \$200.

² No increase.

§ 701.407 *Payments limited to \$10,000.*

The total of all payments made in connection with programs for 1943 under section 8 of the Soil Conservation and Domestic Allotment Act to any individual, partnership, or estate with respect to farms, ranching units, and turpentine places located within a single State, territory, or possession shall not exceed the sum of \$10,000, prior to deduction for association expenses in the county or counties with respect to which the particular payments are made. The total of all payments made in connection with such programs to any person other than an individual, partnership, or estate with respect to farms, ranching units, and turpentine places in the United States (in-

cluding Alaska, Hawaii, and Puerto Rico) shall not exceed the sum of \$10,000, prior to deduction for association expenses in the county or counties with respect to which the particular payments are made.

All or any part of any payment which has been or otherwise would be made to any person under the 1943 program may be withheld or required to be returned if he has adopted or participated in adopting any scheme or device, including the dissolution, reorganization, revival, formation, or use of any corporation partnership, estate, trust, or any other means, which was designed to evade, or would have the effect of evading, the provisions of this section.

§ 701.408 *Deduction for association expenses.* There shall be deducted pro rata from the payments with respect to any farm all or such part as the Secretary may prescribe of the estimated administrative expenses incurred or to be incurred by the county agricultural conservation association in the county in which the farm is located.

§ 701.409 *Conservation materials.* Wherever it is found practicable, limestone, superphosphate, trees, seeds, terracing, and other farming materials and services may be furnished in lieu of payments by the Agricultural Adjustment Agency to be used in carrying out approved production practices on the farm and in areas designated by the Agricultural Adjustment Agency to be used in expanding the production of war crops.

These materials or services will be furnished to the producer by the Agricultural Adjustment Agency either directly or through the medium of a purchase order executed on a form prescribed by the Agricultural Adjustment Agency. When materials or services are furnished under the purchase order plan, payment will be made, in advance of determination of performance by the producer, to the vendor who, in filling the purchase order, furnished to the producer the approved conservation material or service, in accordance with instructions and specifications issued by the Agricultural Adjustment Agency, at not to exceed a fair price fixed in accordance with regulations prescribed by the Secretary.

Wherever the materials or services are furnished a deduction shall be made in an amount determined by the Agricultural Adjustment Agency on the basis approved by the Secretary. If the producer uses any such material in a manner which is not in substantial accord with the purpose for which it was furnished, an additional deduction for the material misused equal to the amount of the original deduction for the material shall be made.

The deduction for materials or services shall be made from any payment due the person who obtained the materials or services on the same or any other farm in the county. If the amount of the deduction for materials or services exceeds the amount of the payment for the producer subject to deduction, the amount of the difference shall be paid by the producer to the Secretary:

Provided, That, in any region wherein the regional director recommends and the Agricultural Adjustment Agency

approves, deductions for any deficit will be made insofar as possible from payments computed for other persons on the farm with respect to which such materials or services were furnished.

Notwithstanding any other provisions of this bulletin, in areas designated by the Agricultural Adjustment Agency and in accordance with its instructions, conservation materials or services furnished may be in lieu of the entire payment for the farm. Conservation materials so furnished shall be limited to farms with respect to which the only payment which may be earned is for carrying out production practices; or the producer foregoes any production adjustment payment; or the sum of the production adjustment allowance and the production practice allowance is \$50.00 or less.

§ 701.410 *General provisions relating to payments*—(a) *Payment restricted to effectuation of purposes of the program.* All or any part of any payment which otherwise would be computed for any person under the 1943 program may be withheld or required to be returned if he adopts or has adopted any practice which tends to defeat any of the purposes of the 1943 or previous agricultural conservation programs; if, by means of any corporation, partnership, estate, trust, or any other device, or in any manner whatsoever, he has offset, or has participated in offsetting, in whole or in part, the performance for which such payment is otherwise authorized; or if, with respect to grazing land, forest land, or woodland owned or controlled by him, he adopts or has adopted any practice which is contrary to sound conservation practices.

Practices which tend to defeat the purposes of the 1943 program and the amount of the payment which shall be withheld or required to be refunded in each such case shall include, but shall not be limited to, the following cases:

Practices and Amounts To Be Withheld or Refunded

(1) A landlord or operator, including the landlord of a cash or standing or fixed rent tenant, either by oral or written lease or operating agreement, or by an oral or written agreement supplementary thereto, requires by coercion or induces by subterfuge his tenant or sharecropper to agree to pay to such landlord or operator all or a portion of any Government payment which the tenant or sharecropper has received or is to receive for participating in the 1943 Agricultural Conservation Program.

Amount. The entire payment for the landlord or operator with respect to the farm.

(2) A landlord or operator requires that his tenant or sharecropper pay, in addition to the rental customarily paid in the community for similar land and use, a sum of money or any thing or service of value equivalent to all or a portion of the Government payment which may be, is being, or has been earned by the tenant or sharecropper.

Amount. The entire payment for the landlord or operator with respect to the farm.

(3) A landlord or operator knowingly omits the names of one or more of his landlords, tenants, or sharecroppers on an application for payment form or other official document required to be filed in connection with the 1943 Agricultural Conservation Program, or knowingly shows incorrectly his or their acreage shares of a crop, or shares of production practices, or otherwise falsifies the record required therein to be submitted in respect to a particular farm.

Amount. The entire payment for the landlord or operator with respect to the farm.

(4) A landlord or operator requires his tenant or sharecropper to execute an assignment, ostensibly covering advances of money or supplies to make a current crop, but actually for a purpose not permitted by the assignment regulations.

Amount. The entire payment for the landlord or operator with respect to the farm.

(5) A person complies with the provisions of the program on a farm or farms operated by him as an individual, but causes or fails to prevent the substantial offsetting of such performance by the farming operations of a partnership, association, estate, corporation, trust, or other business enterprise in which he has a financial interest and the policies of which he is in a position to control.

Amount. The amount of the net deductions computed for the business enterprise.

(6) A partnership, association, estate, corporation, trust, or other business enterprise carries on its operations so as to qualify for payment, but one of the persons who is interested in and in a position to control the operations or policies of the business enterprise, substantially offsets such performance by his individual operations.

Amount. The portion of the payment for the business enterprise which the State committee finds or estimates is commensurate with the person's interest in the enterprise.

(7) A person operates farms in two or more States and substantially offsets his performance in one State by overplanting his farm in another State.

Amount. The net amount of the deduction which would be computed for such person for such overplanting if the farms were in the same State.

(8) A person rents land for cash, standing, or fixed rent to another person who he knows or has good reason to believe will offset such person's performance by substantially overplanting the acreage allotment for the farm which includes such rented land.

Amount. The net amount of the deduction which would be computed if the person were entitled to receive all the crops planted on the land so rented.

(9) A person participates in the planting, production, or harvesting of a crop on a farm other than a farm in which he admits having an interest. (A person shall be considered to be participating in the planting, production, or harvesting of a crop if the committee finds that he furnished labor, machinery, work-

stock, or financial assistance for the planting, production, or harvesting of such crop and that he has a financial interest in such crop.)

Amount. The proportion of the net amount of the deduction which would be computed for the farm which the committee determines was such person's interest in the crops planted, produced, or harvested.

(10) A tenant, in settling his obligations under a written or oral contract or agreement supplemental or collateral thereto, pays or renders cash, standing rent or fixed rent, or a share of the crop, or any service or thing of value, aggregating in value in excess of the rental customarily paid in the community for similar land and use, thereby diverting to the landlord or operator the whole or any part of any Government payment which the tenant is entitled to receive. The application of this rule shall be subject to the approval of the regional director.

Amount. The entire payment for the tenant with respect to the farm and the entire payment for the landlord or operator with respect to all of his farms under the program involved: *Provided, however,* That, where a tenant is renting for a share of the crop only and the tenant's share is 60 percent or less, only the landlord's or operator's payments shall be withheld or recovered.

(11) A landlord or operator forces or causes, by coercion, subterfuge, or in any manner whatsoever, a tenant or sharecropper to abandon a crop prior to harvest for the purpose of obtaining the share of the Government payment that would otherwise be made to the tenant or sharecropper with respect to such crop.

Amount. The entire payment for the landlord or operator with respect to the farm.

(12) A person misuses or participates in the misuse of a marketing card with respect to any commodity for which marketing quotas are in effect or fails to file or knowingly falsifies any report required by or under the regulations pertaining to marketing quotas for the 1943-44 marketing year.

Amount. The entire payment for such person with respect to the farm.

(13) A person whose maximum payment computed without regard to the \$10,000 limitation is in excess of \$10,000 adopts practices which result in a substantial difference between the maximum payment so computed and the payment after applying all applicable deductions except the \$10,000 limitation and the deduction for administrative expenses.

Amount. The net payment shall not exceed that amount which is the same percentage of \$10,000 as the payment computed after applying all applicable deductions, except the \$10,000 limitation and deductions for administrative expenses, is of the maximum payment computed without regard to the \$10,000 limitation: *Provided,* The State committee with the approval of the regional director and the Agricultural Adjustment Agency finds that the practices adopted

apart from the net performance rendered tend to defeat the purposes of the program.

No payment will be made to any person with respect to any farm which he owns or operates in a county if the county committee finds that he has been negligent and careless in his farming operations by failing to carry out approved erosion-control measures on land under his control to the extent that any part of such land has become an erosion hazard during the 1943 program year to other land in the community in which such farm is located.

(b) *Payment computed and made without regard to claims.* Any payment or share of payment shall be computed and made without regard to questions of title under State law; without deduction of claims for advances (except as provided in paragraph (d) of this section, and except for indebtedness to the United States subject to set-off under orders issued by the Secretary); and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

(c) *Changes in leasing and cropping agreements, reduction in number of tenants, and other devices.* If on any farm in 1943 any change in the arrangements which existed on the farm in 1942 is made between the landlord or operator and the tenants or sharecroppers and the change would cause a greater proportion of the payments for special crops to be made to the landlord or operator under the 1943 program than would have been made to the landlord or operator for performance on the farm under the 1942 program, payments to the landlord or operator for special crops under the 1943 program with respect to the farm shall not be greater than the amount that would have been paid to the landlord or operator if the arrangements which existed on the farm in 1942 had been continued in 1943, unless the county committee certifies that the change is justified and approves the change.

If on any farm the number of sharecroppers or share tenants in 1943 is less than the average number on the farm during the three years 1940 to 1942 and the reduction would increase the payments for special crops that would otherwise be made to the landlord or operator, such payments to the landlord or operator shall not be greater than the amount that would otherwise be made, unless the county committee certifies that the reduction is justified and approves the reduction.

The action of the county committee under this paragraph (c) is subject to approval or disapproval by the State committee.

If the State committee finds that any person who files an application for payment pursuant to the provisions of the 1943 program has employed any other scheme or device (including coercion, fraud, or misrepresentation), the effect of which would be or has been to deprive any other person of any payment under any agricultural conservation program to which such person would normally be entitled, the Secretary may withhold, in whole or in part, from the person par-

ticipating in or employing such a scheme or device, or require him to refund in whole or in part, the amount of any payment which has been or would otherwise be made to him in connection with the 1943 program.

(d) *Assignments.* Any person who may be entitled to any payment in connection with the 1943 program may assign his payment in whole or in part as security for cash loaned or advances made for the purpose of financing the making of a crop in 1943. No assignment will be recognized unless it is made in writing on Form ACP-69 in accordance with the instructions (ACP-70) issued by the Agricultural Adjustment Agency and unless the assignment is entitled to priority under instructions issued by the Agricultural Adjustment Agency.

Nothing contained in this paragraph (d) shall be construed to give an assignee a right to any payment other than that to which the farmer is entitled nor (as provided in the statute) shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the farmer without regard to the existence of the assignment.

(e) *Excess cotton acreage.* Any person who makes application for payment with respect to any farm located in a county in which cotton is planted in 1943 shall file with his application a statement that he has not knowingly planted cotton or caused cotton to be planted, during 1943 on land in any farm in which he has an interest, in excess of the cotton allotment under section 344 of the Agricultural Adjustment Act of 1938 for the farm for 1943 and that if cotton was planted in excess of such allotment, it was done without his authority or consent and, if he had knowledge thereof, he made every reasonable effort to prevent such overplanting.

Any person who knowingly plants cotton, or causes cotton to be planted, on his farm in 1943 on acreage in excess of the cotton allotment under section 344 of the Agricultural Adjustment Act of 1938 for the farm for 1943 shall not be eligible for any payment whatsoever, on that farm or any other farm, under the provisions of the 1943 Agricultural Conservation Program. No person shall be deemed to have knowingly overplanted cotton on his farm if the acreage planted to cotton on the farm in 1943 does not exceed the farm cotton acreage allotment by more than the larger of 3 acres or 3 percent of the farm cotton acreage allotment. Any person having an interest in the cotton crop on a farm on which the acreage planted to cotton in 1943 exceeds the farm cotton allotment by more than the amount specified in the last preceding sentence shall be presumed to have knowingly planted cotton on his farm on acreage in excess of such farm cotton allotment if notice of the farm allotment is mailed to him prior to the completion of the planting of cotton on the farm, unless the farmer establishes the fact that the excess acreage was planted to cotton due to his lack of knowledge of the number of acres in the tract(s) planted to cotton. Such notice, if mailed to the operator of the farm, shall be deemed to be notice to all per-

sons sharing in the production of cotton on the farm in 1943.

§ 701.411 *Application for payment—*
(a) *Persons eligible to file applications.* An application for payment with respect to a farm may be made by any person for whom, under the provisions of § 701.405, a share in the payment with respect to the farm may be computed.

(b) *Time and manner of filing application and information required.* Payment will be made only upon application submitted on the prescribed form to the county office. Payment may be withheld from any person who fails to file any form or furnish any information required with respect to any farm which such person is operating or renting to another person for a share of the crops grown thereon or for cash or standing rent. Any application for payment may be rejected if any form or information required of the applicant is not submitted to the county office within the time fixed by the regional director. At least 2 weeks' notice to the public shall be given of the expiration of a time limit for filing prescribed forms or required information, and any time limit fixed shall be such as affords a full and fair opportunity to those eligible to file the form or information within the period prescribed. Such notice shall be given by mailing the same to the office of each county committee and making copies of the same available to the press.

(c) *Application for other farms.* If a person makes application for payment or is furnished conservation materials or services in lieu of payment with respect to a farm in a county and has the right to receive all or a portion of the crops or proceeds therefrom produced on any other farm in the county for which a deduction could be computed under the program, he must make application for payment with respect to all such farms. Upon request of the State committee, any person shall file with the committee such information as it may request regarding any other farm in the State with respect to which he has the right to receive all or a portion of the crops or proceeds thereof or which he rents to another.

§ 701.412 *Appeals.* Any person may, within 15 days after notice thereof is forwarded to or made available to him, request the county committee in writing to reconsider its recommendation or determination in any of the following matters respecting any farm in the operation of which he has an interest as landlord, tenant, or sharecropper: (a) eligibility to file an application for payment; (b) any acreage allotment, war crop goal, normal or actual yield, grazing capacity, measurement, or production practice allowance; (c) the division of payment; or (d) any other matter affecting the right to or the amount of his payment with respect to the farm. The county committee shall notify him of its decision in writing within 15 days after receipt of such written request for reconsideration. If he is dissatisfied with the decision of the county committee he may, within 15 days after such decision is forwarded to or made available to him, appeal in writing to the State committee.

The State committee shall notify him of its decision in writing within 30 days after the submission of the appeal. If he is dissatisfied with the decision of the State committee, he may, within 15 days after its decision is forwarded to or made available to him, request the regional director to review the decision of the State committee.

Written notice of any decision rendered under this section by the county or State committee shall also be issued to each person known to it who, as landlord, tenant, or sharecropper having an interest in the operation of the farm, may be adversely affected by such decision. Only a person who shows that he is adversely affected by the outcome of any request for reconsideration or appeal may appeal the matter further but any person who, as landlord, tenant, or sharecropper having an interest in the operation of the farm, would be affected by the decision to be made on any reconsideration by the county committee or subsequent appeal shall be given a full and fair hearing if he appears when the hearing thereon is held.

§ 701.413 *State and regional bulletins, instructions, and forms.* The Agricultural Adjustment Agency is hereby authorized to make such determinations and to prepare and issue such State and regional bulletins, instructions, and forms as may be required in administering the 1943 program pursuant to the provisions hereof.

§ 701.414 *Definitions.* For the purposes of the 1943 program, unless the context otherwise requires:

(a) *Officials.* (1) "Secretary" means the Secretary of Agriculture of the United States.

(2) "Regional director" means the director of the division of the Agricultural Adjustment Agency in charge of the agricultural conservation program in the region to which that division relates.

(3) "State committee or State agricultural conservation committee" means the group of persons designated within any State to assist in the administration of the agricultural conservation programs in that State.

(4) "County committee or county agricultural conservation committee" means the group of persons elected within any county to assist in the administration of the agricultural conservation programs in that county.

(b) *Regions.* (1) "Northeast Region" means the area included in the States of Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

(2) "East Central Region" means the area included in the States of Delaware, Kentucky, Maryland, North Carolina, Tennessee, Virginia, and West Virginia.

(3) "Southern Region" means the area included in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, South Carolina, and Texas.

(4) "North Central Region" means the area included in the States of Illinois, Indiana, Iowa, Michigan, Minnesota,

Missouri, Nebraska, Ohio, South Dakota, and Wisconsin.

(5) "Western Region" means the area included in the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, and Wyoming.

(c) *Farms.* "Farm" means all adjacent or nearby farm or range land under the same ownership which is operated by one person, including also:

(1) Any other adjacent or nearby farm or range land which the county committee, in accordance with instructions issued by the Agricultural Adjustment Agency, determines is operated by the same person as part of the same unit in producing range livestock or with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other lands; and

(2) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops.

A farm shall be regarded as located in the county or administrative area, as the case may be, in which the principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county or administrative area, as the case may be, in which the major portion of the farm is located.

(d) *Cropland.* (1) "Cropland" means farm land which in 1942 was tilled or was in regular rotation, excluding any land which constitutes, or will constitute if such tillage is continued, a wind-erosion hazard to the community, and excluding also, except in the Southern Region, any land in commercial orchards.

(e) *Miscellaneous.* (1) "Person" means an individual, partnership, association, corporation, estate, or trust, or other business enterprise or other legal entity, and, wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(2) "Landlord or owner" means a person who owns land.

(3) "Sharecropper" means a person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of a crop produced thereon or of the proceeds thereof.

(4) "Tenant" means a person other than a sharecropper who rents land from another person (whether or not he rents such land or part thereof to another person), including, in the case of rice, a person furnishing water for a share of the rice.

(5) "Commercial orchards" means the acreage on the farm in planted or cultivated fruit trees, nut trees, vineyards, hops, or bush fruits (excluding nonbearing orchards and vineyards), from which the major portion of the production is normally sold.

(6) "Noncrop open pasture land" means pasture land (other than rotation pasture land) on which the predominant growth is forage suitable for grazing and on which the number or grouping of any trees or shrubs is such that

the land could not fairly be considered as woodland.

(7) "Range land" means any land which produces forage grazed by range livestock without cultivation or general irrigation, in which an operator has such a legal estate or interest as to give him control thereof, except land determined by the Agricultural Adjustment Agency to be noncrop open pasture.

(8) "Animal unit" means one cow, one horse, five sheep, five goats, two calves, or two colts, or the equivalent thereof.

(9) "Grazing capacity" of range land or noncrop open pasture land means the number of animal units which such land will sustain, on a 12-month basis, over a period of years without decreasing the stand of grass or other grazing vegetation, and without injury to the forage, tree-growth, or watershed.

(10) "Special crop" means corn, cotton, wheat, tobacco, rice, or peanuts.

§ 701.415 *Authority, availability of funds, and applicability.*—(a) *Authority.* This program is approved pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act (49 Stat. 1148, 16 U.S.C. 590g to 590q), as amended. In connection with the effectuation of the purposes of section 7 (a) of said Act for 1943 the payments provided for herein will be made for participation in the 1943 program.

(b) *Availability of funds.* The provisions of the 1943 program are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact; the making of the payments herein provided are contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amounts of such payments will necessarily be within the limits finally determined by such appropriation, the apportionment of such appropriation under the provisions of the Soil Conservation and Domestic Allotment Act, as amended, and the extent of national participation in the program. As an adjustment for participation the rates of payment and deduction with respect to any commodity or item of payment may be increased or decreased from the rates set forth herein by as much as 10 percent.

The funds provided for the 1943 program will not be available for the payment of applications filed in the county office after June 30, 1945.

(c) *Applicability.* The provisions of the 1943 program contained herein, except § 701.407 are not applicable to (1) Hawaii, Puerto Rico, and Alaska; (2) counties for which special agricultural conservation programs are approved for 1943 by the Secretary; (3) any department or bureau of the United States Government and any corporation wholly owned by the United States; and (4) grazing lands owned by the United States which were acquired or reserved for conservation purposes or which are to be retained permanently under Government ownership. Such lands include,

but are not limited to, lands owned by the United States which are administered by the Forest Service or the Soil Conservation Service of the United States Department of Agriculture or by the Bureau of Biological Survey of the United States Department of the Interior. Grazing lands administered by other bureaus of the Department of the Interior are within the scope of the program only if such lands are operated under an instrument in writing approved by the Department of the Interior, under which the holder has an interest in the grazing and forage growing on the land and a right to occupy the land in order to carry out his grazing operations.

The program is applicable to lands owned by corporations which are only partly owned by the United States, such as Federal Land Banks and Production Credit Associations.

The 1943 program is also applicable to any land which, although owned by the United States or a corporation wholly owned by it, is to be temporarily under such Government or corporation ownership and was not acquired or reserved for conservation purposes. Such land shall include that administered by the Farm Security Administration, the Reconstruction Finance Corporation, the Home Owners' Loan Corporation, or the Federal Farm Mortgage Corporation, or by any other Government agency which the Agricultural Adjustment Agency finds complies with all the provisions of the preceding sentence. The 1943 program will also be applicable to any cropland farmed by private persons which is owned by the United States or a corporation wholly owned by it, if the Congress so provides.

Done at Washington, D. C., this 28th day of November 1942. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 42-12700; Filed, December 1, 1942;
11:22 a. m.]

TITLE 18—CONSERVATION OF POWER

Chapter I—Federal Power Commission

[Order No. 100]

PART 260—NATURAL GAS ACT STATEMENTS AND REPORTS

ORDER PRESCRIBING FORM OF ANNUAL REPORT FOR NATURAL-GAS COMPANIES (CLASSES A AND B), FPC FORM NO. 133

NOVEMBER 24, 1942.

The Federal Power Commission, acting pursuant to authority granted by the Natural Gas Act (52 Stat. 821), particularly sections 10 (a) and 16 thereof, and finding such action necessary and appropriate for carrying out the provisions of said Act, orders That:

§ 260.1 *Financial and statistical report*; Form 133. (a) The accompanying

¹ Filed as part of the original document. Copies may be obtained from the Federal Power Commission.

FPC Form No. 133, Annual Report for natural-gas companies, as defined in the Natural Gas Act, which are in Classes A and B, as defined in the Commission's Uniform System of Accounts Prescribed for Natural Gas Companies, subject to the provisions of the Natural Gas Act, be and the same hereby is approved:

(b) Each natural-gas company which is in Class A or B shall file with the Commission an original and two conformed copies, duly executed, of such Annual Report, FPC Form No. 133, for the year 1942 and each year thereafter; said Annual Report is to be filed on or before the last day of the third month following the close of the calendar year, or other established fiscal year;

(c) The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 42-12746; Filed, December 2, 1942;
9:55 a. m.] 202-1

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue

Subchapter A—Income and Excess Profits Taxes

[T. D. 5188]

PART 19—INCOME TAX UNDER THE INTERNAL REVENUE CODE

FIGURE TO BE USED IN DETERMINING RESERVE AND OTHER POLICY LIABILITY CREDIT FOR LIFE INSURANCE COMPANIES

By virtue of the authority vested in me by section 202 (b) of the Internal Revenue Code, as amended by section 163 of the Revenue Act of 1942 (Public Law 753, 77th Congress), approved October 21, 1942, it is hereby determined that the figure to be used in computing the "reserve and other policy liability credit" of life insurance companies for the taxable year 1942 shall be .93.

[SEAL] JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

NOVEMBER 30, 1942.

[F. R. Doc. 42-12738; Filed, December 1, 1942;
4:25 p. m.]

Subchapter C—Miscellaneous Excise Taxes

[T. D. 5190]

PART 130—TAXES ON SAFE DEPOSIT BOXES, TRANSPORTATION OF OIL BY PIPE LINE, TELEPHONE, TELEGRAPH, RADIO AND CABLE MESSAGES AND SERVICES, AND TRANSPORTATION OF PERSONS

MISCELLANEOUS AMENDMENTS

In order to conform Regulations 42 (1942 edition) [Part 130, Title 26, Code of Federal Regulations], relating to the taxes on safe deposit boxes, transportation of oil by pipe line, telephone, telegraph, radio and cable messages and services, and transportation of persons under the provisions of the Internal Revenue Code, to sections 601, 606, 609 and 616 of the Revenue Act of 1942 (Public Law 753, Seventy-seventh Congress,

second session), approved October 21, 1942, such regulations are hereby amended as follows:

PARAGRAPH 1. The first paragraph of § 130.0 is amended to read as follows:

These regulations deal with the excise taxes:

(a) On the use of safe deposit boxes, imposed by Chapter 12 of the Internal Revenue Code, as amended by section 532 of the Revenue Act of 1941.

(b) On the transportation of oil by pipe line, imposed by Chapter 30, Subchapter A, of the Internal Revenue Code, as amended by sections 502 and 521 (a) (22) of the Revenue Act of 1941 and section 616 of the Revenue Act of 1942.

(c) Imposed by Chapter 30, Subchapter B, of the Internal Revenue Code, as amended by section 548 of the Revenue Act of 1941 and section 606 of the Revenue Act of 1942, with respect to:

(1) Telephone and radio telephone messages and conversations;

(2) Telegraph, cable, and radio dispatches and messages;

(3) Leased wire, teletypewriter, and talking circuit special service;

(4) Wire and equipment services (including stock quotation and information services, burglar alarm and fire alarm service, and all similar services);

(5) Local telephone service rendered to subscribers.

(d) Imposed by Chapter 30, Subchapter C, of the Internal Revenue Code, as added by section 554 (b) of the Revenue Act of 1941, and amended by section 609 of the Revenue Act of 1942, with respect to:

(1) Transportation of persons by rail, motor vehicle, water, or air;

(2) Seating or sleeping accommodations furnished in connection with transportation of persons by rail, motor vehicle, water, or air.

PAR. 2. There is inserted immediately after § 130.25 the following:

EXEMPT TRANSPORTATION

SEC. 616. EXEMPT TRANSPORTATION OF OIL BY PIPE LINE. (Revenue Act of 1942, Title VI.)

Section 3460 (relating to tax on transportation of oil by pipe line) is amended by adding at the end thereof the following new subsection:

(c) *Exempt transportation.* For the purposes of this section, the term "transportation" shall not include any movement through lines of pipe within the premises of a refinery, a bulk plant, a terminal, or a gasoline plant, if such movement is not a continuation of a taxable transportation. The crossing of rights-of-way, streets, highways, railroads, levees, or narrow bodies of water, in connection with such a movement, shall not of itself constitute such movement as being "transportation".

SEC. 601. EFFECTIVE DATE OF THIS TITLE. (Revenue Act of 1942, approved October 21, 1942, Title VI.)

This title shall take effect on the first day of the first month which begins more than 10 days after the date of the enactment of this Act.

§ 130.26 *Exempt transportation.* The tax does not apply to the movement on and after November 1, 1942, of crude petroleum or liquid products thereof through lines of pipe within the premises of a refinery, a bulk plant, a terminal, or a gasoline plant, if such movement

is not a continuation of a taxable transportation. For purposes of this exemption, a movement is regarded as being carried on within the premises of a refinery, bulk plant, terminal, or gasoline plant even though in connection with such a movement the pipe lines through which the petroleum or liquid products thereof are carried incidentally traverse rights-of-way, streets, highways, railroads, levees or narrow bodies of water (such as creeks, canals, etc.).

PAR. 3. There is inserted immediately preceding § 130.30 the following:

SEC. 606. TELEPHONE, TELEGRAPH, ETC. (Revenue Act of 1942, Title VI.)

(a) Rates of tax. Section 3465 is amended to read as follows:

SEC. 3465. IMPOSITION AND RATE OF TAX.

(a) There shall be imposed:

(1) *Telephone and telegraph, etc.* (A) On the amount paid within the United States for each telephone or radio telephone message or conversation for which the toll charge is more than 24 cents, a tax equal to 20 per centum of the amount so paid. If a bill is rendered the taxpayer for the services described in this subparagraph, the amount upon which the tax shall be based shall be the sum of all such charges included in the bill, and the tax shall not be based upon the charge for each item, separately, included in the bill.

(B) On the amount paid within the United States for each telegraph, cable, or radio dispatch or message a tax equal to 15 per centum of the amount so paid, except that in the case of each international telegraph, cable, or radio dispatch or message the rate shall be 10 per centum. If a bill is rendered the taxpayer for the services described in this subparagraph, the amount upon which the tax at each of the rates in this subparagraph shall be based shall be the sum of all such charges at that rate included in the bill, and the tax shall not be based upon the charge for each item, separately, included in the bill.

If the tax under subparagraph (A) or (B) is paid by inserting coins in coin-operated telephones, the tax shall be computed to the nearest multiple of 5 cents, except that where the tax is midway between multiples of 5 cents, the next higher multiple shall apply. Only one payment of a tax imposed by subparagraph (A) or (B) shall be required notwithstanding the lines or stations of one or more persons are used in the transmission of such dispatch, message, or conversation.

SEC. 601. EFFECTIVE DATE OF THIS TITLE. (Revenue Act of 1942, approved October 21, 1942, Title VI.)

This title shall take effect on the first day of the first month which begins more than 10 days after the date of the enactment of this Act.

SEC. 606. TELEPHONE, TELEGRAPH, ETC. (Revenue Act of 1942, Title VI.)

(b) *Effective date of amendments.* (1) The amendments to section 3465 (a) (1) made by subsection (a) shall be applicable only with respect to the period beginning with the effective date of this title.

PAR. 4. Sections 130.30 and 130.31 are amended to read as follows:

§ 130.30 *Effective period.* The taxes on telegraph, telephone, cable, or radio dispatches, messages, or conversations, were imposed originally by Title V of the Revenue Act of 1932. The applicable provisions of the Revenue Act of 1932

were superseded, effective March 1, 1939, by provisions of the Internal Revenue Code. The Code provisions were amended subsequently by various Acts, including the Revenue Act of 1940, and as so amended were to remain in effect until June 30, 1945. The Code provisions were further amended by the Revenue Act of 1941 and the Revenue Act of 1942 and as the result of such amendments the rates and basis of computing these taxes were changed. The amendments made by the Revenue Act of 1941 were effective as of October 1, 1941, and the amendments made by the Revenue Act of 1942 were effective as of November 1, 1942. The taxes will continue in effect indefinitely.

§ 130.31 *Scope of tax—(a) Telephone and radio telephone messages, and conversations.* Paragraph (1) (A) of section 3465 (a), as amended by section 606 (a) of the Revenue Act of 1942, imposes a tax on the amount paid within the United States for each telephone or radio telephone message or conversation, for which the toll charge is more than 24 cents. Prior to November 1, 1942, the tax was on any such message or conversation which originated within the United States.

(b) *Telegraph, cable, and radio dispatches and messages.* Paragraph (1) (B) of section 3465 (a), as amended by section 606 of the Revenue Act of 1942, imposes a tax on the amount paid within the United States for each telegraph, cable, or radio dispatch or message regardless of the amount of the charge therefor. Prior to November 1, 1942, the tax was on any such dispatch or message which originated within the United States.

PAR. 5. Section 130.33 is amended to read as follows:

§ 130.33 *Rate and application of tax—(a) Telephone and radio telephone messages, and conversations.* In the case of each telephone or radio telephone message or conversation where the charge is more than 24 cents, the rate of tax is 20 per cent of the amount paid. Prior to November 1, 1942, the tax was at the rate of 5 cents for each 50 cents or fraction thereof of the amount paid.

Any additional charge made for "overtime" in connection with a telephone, or radio telephone, message or conversation shall be added to the basic charge for the purpose of determining the amount of tax due. A report charge amounting to more than 24 cents is subject to tax. For information with respect to charges amounting to 24 cents or less, see §§ 130.39 to 130.42.

(b) *Telegraph, cable, and radio dispatches and messages.* The amount paid for each telegraph, cable, or radio dispatch or message is subject to tax at the rate of 15 per cent, except that in the case of each international dispatch or message the rate of tax is 10 per cent. Prior to November 1, 1942, the tax on all telegraph, cable or radio dispatches or messages was 10 per cent.

A charge made for a telephone toll call used by a telegraph company in effecting delivery of a telegraph message shall be added to the basic charge for

the transmission of the telegraph message for the purpose of determining the amount subject to tax. In such case, the telegraph company is not liable for tax on the amount paid by it to the telephone company for the toll call whether or not the charge therefor is in excess of 24 cents.

A charge made for a telephone toll call which is used to reach a telegraph office for the purpose of sending a telegraph message should not be added to the basic charge for the transmission of the telegraph message, as the telegraph message is considered to begin at the telegraph office. The telephone toll call in such case is considered to be a separate transaction and as such subject to tax.

(c) *General.* Where a bill is rendered to a taxpayer covering charges for (1) telephone or radio telephone messages, (2) telegraph, cable, or radio dispatches or messages, or (3) international telegraph, cable, or radio dispatches or messages the tax at the rate which is applicable in the particular case shall be based on the sum of all charges included in the bill which are subject to that rate.

Where the tax on a telephone or radio telephone message or conversation, or a telegraph, cable, or radio dispatch or message is paid by inserting coins in a coin-operated telephone, the tax shall be computed to the nearest multiple of 5 cents, and where the tax is midway between multiples of 5 cents, the next higher multiple shall apply. In other words, one-half or a greater fraction of 5 cents shall be treated as 5 cents and a smaller fraction shall be ignored.

The tax applies to all amounts paid for services rendered and facilities provided incidental to the transmission of a message or conversation. An amount paid to a telephone, telegraph, radio, or cable company for messenger service in bringing the recipient of a message to the telephone, or in delivering a dispatch or message, must be included in determining the total amount subject to tax. However, an amount paid for messenger service rendered by a hotel or similar establishment is not to be included in the total charge on which the tax is computed.

Transmission begins when the message is delivered by the sender to the carrier, or its agent, and continues until receipt by the addressee or his agent. A dispatch, message, or conversation transmitted by the combined facilities of several lines or radio links is considered to be one dispatch, message, or conversation for purposes of the tax.

All transmission services, as described herein, when rendered for hire are subject to tax whether or not the agency furnishing such services is a common carrier.

The tax is payable by the person paying the transmission charge and is to be collected by the person receiving the payment. (See § 130.70.) If a message, dispatch, or conversation is transmitted "collect", the person who pays the charge therefor is liable for the tax.

Effective as of November 1, 1942, messages which originate in the United States and are sent "collect" to a recipient outside of the United States are

not taxable, while messages originating outside of the United States and sent "collect" to a recipient in the United States are taxable. With respect to messages transmitted prior to November 1, 1942, the rule is the reverse, i. e., messages which originated in the United States and which were sent "collect" to a recipient outside the United States are taxable, while messages which originated outside of the United States and were sent "collect" to a recipient in the United States are not taxable.

PAR. 6. There is inserted immediately preceding § 130.36 the following:

SEC. 606. TELEPHONE, TELEGRAPH, ETC. (Revenue Act of 1942, Title VI.)

(a) Rates of Tax.—Section 3465 is amended to read as follows:

SEC. 3465. IMPOSITION AND RATE OF TAX.

(a) There shall be imposed:

(2) *Leased wires, etc.* (A) A tax equivalent to 15 per centum of the amount paid for leased wire, teletypewriter, or talking circuit special service, but not including an amount paid for leased wire, teletypewriter, or talking circuit special service used exclusively in rendering a service taxable under subparagraph (B).

(B) A tax equivalent to 5 per centum of the amount paid for any wire and equipment service (including stock quotation and information services, burglar alarm or fire alarm service, and all other similar services, but not including service described in subparagraph (A)).

The tax shall apply under this paragraph whether or not the wires or services are within a local exchange area.

(b) This section shall not apply to the amount paid for so much of the service described in paragraph (2) of subsection (a) as is utilized in the conduct, by a common carrier or telephone or telegraph company or a radio broadcasting station or network, of its business as such.

SEC. 606. TELEPHONE, TELEGRAPH, ETC. (Revenue Act of 1942, Title VI.)

(b) *Effective date of amendments.*

(2) The amendments to section 3465 (a) (2) and (3) made by subsection (a) shall apply only to amounts paid pursuant to bills rendered after the effective date of this title for service for which no previous bill was rendered. Where bills rendered after the effective date of this title include charges for services previously rendered, the amendments shall not apply to such service as was rendered more than two months before the effective date of this title, and the provisions of section 3465 in effect at the time such prior service was rendered shall be applicable to the amounts paid for such service.

SEC. 601. EFFECTIVE DATE OF THIS TITLE. (Revenue Act of 1942, approved October 21, 1942, Title VI.)

This title shall take effect on the first day of the first month which begins more than 10 days after the date of the enactment of this Act.

PAR. 7. Sections 130.36 and 130.37 are amended to read as follows:

§ 130.36 *Effective period.* The tax on leased wires and talking circuit special service was imposed originally by Title V of the Revenue Act of 1932. The applicable provisions of the Revenue Act of 1932 were superseded March 1, 1939, by the provisions of the Internal Rev-

enue Code. The Code provisions were amended subsequently by various Acts, including the Revenue Act of 1940, and as so amended were to remain in effect until June 30, 1945. Effective as of October 1, 1941, the provisions of the Code relating to this tax were further amended by section 548 of the Revenue Act of 1941, increasing the rate of tax and imposing a tax on the amount paid for any wire and equipment service (including stock quotation and information services, and burglar alarm or fire alarm service). The Code provisions relating to these taxes were also amended by section 606 of the Revenue Act of 1942, approved October 21, 1942. The amendments made by such section apply only to amounts paid pursuant to bills rendered on and after November 2, 1942, for service furnished on or after September 1, 1942, for which no previous bill was rendered. These taxes will continue in effect indefinitely.

§ 130.37 *Scope of tax.*—(a) *Leased wire, teletypewriter, or talking circuit special service.* Paragraph (2) (A) of section 3465 (a), as amended by section 606 of the Revenue Act of 1942, imposes a tax on the amount paid for leased wire, teletypewriter, or talking circuit special service, except where such service is used exclusively in rendering a service taxable under paragraph (2) (B) of such section 3465 (a).

(b) *Wire and equipment service.* Paragraph (2) (B) of section 3465 (a), as amended by section 606 of the Revenue Act of 1942, imposes a tax on the amount paid for any wire and equipment service, including stock quotation and information services, burglar and fire alarm services, and all other similar services.

PAR. 8. Section 130.38 is amended as follows:

(A) The first paragraph of the section is amended to read as follows:

In the case of leased wire, teletypewriter, or talking circuit special service, the tax is to be computed at the rate of 15 per cent of the amount paid therefor. In the case of service taxable under section 3465 (a) (2) prior to amendment by section 606 of the Revenue Act of 1942, the tax was at the rate of 10 per cent of the amount paid.

(B) By adding after the third paragraph of subsection (a) the following paragraph:

Beginning with the effective date of section 606 of the Revenue Act of 1942, as explained in § 130.36 of these regulations, amounts paid for leased wire, teletypewriter, or talking circuit special service used exclusively in rendering a service taxable under paragraph (2) (B) of section 3465 are not subject to the tax imposed by paragraph (2) (A) of such section 3465.

(C) By substituting for the last paragraph of paragraph (b) the following:

For exemption from the tax on leased wire, teletypewriter, and talking circuit special service where such service is used exclusively in rendering any of the serv-

ices described in this paragraph, see paragraph (a) of this section.

PAR. 9. There is inserted immediately preceding § 130.39 the following:

SEC. 606. TELEPHONE, TELEGRAPH, ETC. (Revenue Act of 1942, Title VI.)

(a) Rates of Tax. Section 3465 is amended to read as follows:

SEC. 3465. IMPOSITION AND RATE OF TAX.

(a) There shall be imposed:

(3) *Local telephone service.*—A tax equivalent to 10 per centum of the amount paid by subscribers for local telephone service and for any other telephone service in respect of which a tax is not payable under paragraph (1) or (2). Amounts paid for the installation of instruments, wires, poles, switchboards, apparatus, and equipment shall not be considered amounts paid for service. Service paid for by inserting coins in coin-operated telephones available to the public shall not be subject to the tax imposed by this paragraph, except that where such coin-operated telephone service is furnished for a guaranteed amount, the amounts paid under such guarantee plus any fixed monthly or other periodic charge shall be subject to the tax.

SEC. 606. TELEPHONE, TELEGRAPH, ETC. (Revenue Act of 1942, Title VI.)

(b) *Effective date of amendments.*

(2) The amendments to section 3465 (a) (2) and (3) made by subsection (a) shall apply only to amounts paid pursuant to bills rendered after the effective date of this title for service for which no previous bill was rendered. Where bills rendered after the effective date of this title include charges for services previously rendered, the amendments shall not apply to such service as was rendered more than two months before the effective date of this title, and the provisions of section 3465 in effect at the time such prior service was rendered shall be applicable to the amounts paid for such service.

PAR. 10. Section 130.39 is amended to read as follows:

§ 130.39 *Effective period.* The tax on local and other telephone services was added to the provisions of section 3465 of the Internal Revenue Code by section 548 of the Revenue Act of 1941, which became effective October 1, 1941. Section 3465 was amended by section 606 of the Revenue Act of 1942. The amendment as it relates to this tax applies only to amounts paid pursuant to bills rendered on and after November 2, 1942, for service furnished on or after September 1, 1942, for which no previous bill was rendered.

PAR. 11. The first paragraph of § 130.40 is amended to read as follows:

Paragraph (3) of section 3465 (a), as amended by section 606 of the Revenue Act of 1942, imposes a tax on the amount paid by any subscriber for local telephone service and for any other telephone service in respect of which a tax is not payable under the provisions of paragraph (1) or (2) of that section.

PAR. 12. The first paragraph of § 130.41 is amended to read as follows:

The tax is imposed at the rate of 10 percent of the amount paid by any subscriber for local telephone service or for any other telephone service which is not

subject to the provisions of section 3465 (a) (1) or (2) of the Code, as amended. (See §§ 130.30 to 130.38.) In the case of service taxable under section 3465 (a) (3) prior to amendment by section 606 of the Revenue Act of 1942, the tax was at the rate of 6 per cent of the amount paid.

PAR. 13. Section 130.42 is amended to read as follows:

§ 130.42 *Coin-operated telephones.* No tax is imposed with respect to charges of 24 cents or less paid by the insertion of coins in public coin-operated telephones for a single telephone conversation, except where the coin-operated service is furnished for a guaranteed amount. However, if the amount paid for a single telephone conversation, including additional charges for overtime service, totals more than 24 cents, the tax imposed by section 3465 (a) (1) of the Code, as amended, applies. (See §§ 130.30 to 130.35.)

Service paid for by inserting coins in coin-operated telephones where the coin-operated telephone service is furnished for a guaranteed amount is taxable. In such case, the tax attaches to the amounts paid under the guarantee plus any fixed monthly or other periodic charge.

PAR. 14. There is inserted immediately preceding § 130.50 the following:

SEC. 609. TRANSPORTATION OF PERSONS. (Revenue Act of 1942, Title VI.)

(a) Increase in Rate.—Section 3469 (a) (relating to tax on transportation of persons) * * * are amended by striking out "5 per centum" and inserting in lieu thereof "10 per centum."

SEC. 601. EFFECTIVE DATE OF THIS TITLE. (Revenue Act of 1942, approved October 21, 1942, Title VI.)

This title shall take effect on the first day of the first month which begins more than 10 days after the date of the enactment of this Act.

PAR. 15. Section 130.50 is amended by adding thereto the following sentence:

The increase in the tax rate made by the amendment of section 3469 by section 609 of the Revenue Act of 1942 became effective November 1, 1942.

PAR. 16. The first paragraph of § 130.52 is amended to read as follows:

The tax is 10 per cent of the amount of the taxable payment for transportation. Prior to November 1, 1942, the tax was 5 per cent of such amount.

PAR. 17. There is inserted immediately preceding § 130.55 the following:

SEC. 609. TRANSPORTATION OF PERSONS. (Revenue Act of 1942, Title VI.)

(a) Increase in Rate.— * * * section 3469 (c) (relating to tax on seats or berths) are amended by striking out "5 per centum" and inserting in lieu thereof "10 per centum."

SEC. 601. EFFECTIVE DATE OF THIS TITLE. (Revenue Act of 1942, approved October 21, 1942, Title VI.)

This title shall take effect on the first day of the first month which begins more than 10 days after the date of the enactment of this Act.

PAR. 18. Section 130.55 is amended by adding thereto the following sentence:

The amendment to section 3469 made by section 609 of the Revenue Act of 1942, whereby the rate of tax was increased, became effective November 1, 1942.

PAR. 19. The first paragraph of § 130.57 is amended to read as follows:

The tax is 10 per cent of the amount of the taxable payment for seating or sleeping accommodations. Prior to November 1, 1942, the tax was 5 per cent of such amount.

PAR. 20. There is inserted immediately preceding § 130.63 the following:

SEC. 609. TRANSPORTATION OF PERSONS. (Revenue Act of 1942, Title VI.)

(b) Exemption of Members of Armed Forces of United Nations From Tax on Transportation of Persons, Etc.—Section 3469 (f) (2) (relating to exemptions from the tax on transportation of persons) is amended by inserting after the words "uniform of the United States" a comma and the following: "or to members of the military or naval forces of any of the other United Nations traveling in uniform of such nation, * * *"

PAR. 21. Section 130.63 is amended by inserting after the words "including authorized cadets and midshipmen," the words "or to members of the military or naval forces of any of the United Nations."

(Secs. 601, 606, 609 and 616 of the Revenue Act of 1942 (Public Law 753, 77th Cong.), and sections 1855, 3472 and 3791 of the Internal Revenue Code (53 Stat. 206, 423 and 467; 26 U.S.C., 1940 ed., 1855, 3472 and 3791))

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: November 30, 1942.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 42-12740; Filed, December 1, 1942; 4:25 p. m.]

[T.D. 5189]

PART 316—EXCISE TAXES ON SALES TO THE MANUFACTURER

REFRIGERATION EQUIPMENT, PHOTOGRAPHIC SUPPLIES, ETC.

In order to conform Regulations 46 [Part 316, Title 26, Code of Federal Regulations, 1940 Sup.] as amended, relating to excise taxes on sales by the manufacturer under the Internal Revenue Code, to sections 601, 607, 610, 611, 614, 615, and 618 (b) of the Revenue Act of 1942 (Public Law 753, 77th Congress, 2d Session), such regulations are amended as follows:

PARAGRAPH 1. There is inserted immediately preceding § 316.2 the following:

SEC. 601. EFFECTIVE DATE OF THIS TITLE. (Revenue Act of 1942, Title VI.)

This title shall take effect on the first day of the first month which begins more than 10 days after the date of the enactment of this Act.

PAR. 2. The last two paragraphs of § 316.2, as amended by Treasury Decision

5099, approved November 28, 1941, are eliminated and the following new paragraph is inserted in lieu thereof:

Under the provisions of Title VI of the Revenue Act of 1942, effective November 1, 1942, the taxes with respect to sales of electric signs, rubber articles, washing machines and optical equipment are terminated, and certain changes are made in the taxes with respect to sales of refrigerators, etc., and photographic apparatus.

PAR. 3. The last paragraph of § 316.5 is amended to read as follows:

In the case of a lease, an installment sale, a conditional sale, or a chattel mortgage arrangement, a proportionate part of the tax attaches to each payment. (See § 316.9.) In the case of use by the manufacturer (see § 316.7) the tax attaches at the time the use begins.

PAR. 4. There is inserted immediately preceding § 316.8 the following:

SEC. 618. SALE UNDER CHATTEL MORTGAGE. (Revenue Act of 1942, Title VI.)

(b) *Manufacturers' sales taxes generally.* Section 3441 (c) (1) (relating to tax where articles are sold under installment or conditional sales contracts) is amended by striking out "or (C) a conditional sale" and inserting in lieu thereof "(C) a conditional sale, or (D) a chattel mortgage arrangement wherein it is provided that the sales price shall be paid in installments."

PAR. 5. Section 316.9, as amended by Treasury Decision 5099, is further amended by changing the heading to read "Basis of tax on leases, installment sales, conditional sales, and sales under chattel mortgage arrangements," and by adding the following new paragraph at the end thereof:

Where articles are sold by the manufacturer on and after November 1, 1942, under a chattel mortgage arrangement, with payments to be made in installments, a proportionate part of the total tax shall be paid upon each payment made with respect to the articles. The tax must be returned and paid to the collector during the month following that in which such payment is made.

PAR. 6. There is inserted immediately preceding § 316.60 the following:

SEC. 610. ORGANS UNDER CONTRACT BEFORE OCTOBER 1, 1941. (Revenue Act of 1942, Title VI.)

The tax under section 3404 (d) of the Internal Revenue Code shall not apply to the sale of an organ sold under a bona fide written contract entered into before October 1, 1941, and tax paid with respect to the sale of an organ under such a contract may be refunded, subject to the provisions of section 3443 (d) of the Internal Revenue Code.

PAR. 7. Section 316.63, as added by Treasury Decision 5099, is amended by adding the following new paragraph at the end thereof:

The tax does not apply to an organ sold under a bona fide written contract entered into before October 1, 1941. In any case where tax has been paid with respect to the sale of an organ under

such a contract, the person who paid the tax to the United States may take a credit or be allowed a refund in the amount of the tax paid on such article in accordance with the provisions of § 316.204.

PAR. 8. There is inserted immediately preceding § 316.70 the following:

SEC. 614. REFRIGERATORS, REFRIGERATING APPARATUS, AND AIR-CONDITIONERS. (Revenue Act of 1942, Title VI.)

Section 3405 is amended to read as follows:

SEC. 3405. TAX ON MECHANICAL REFRIGERATORS AND SELF-CONTAINED AIR-CONDITIONING UNITS.

There shall be imposed on the following articles (including in each case parts or accessories therefor sold on or in connection with the sale thereof) sold by the manufacturer, producer, or importer a tax equivalent to 10 per centum of the price for which sold:

(a) *Refrigerators.*—Household type refrigerators (for single or multiple cabinet installations) having, or being primarily designed for use with, a mechanical refrigerating unit operated by electricity, gas, kerosene, or gasoline.

(b) *Refrigerating apparatus.* Cabinets, compressors, condensers, evaporators, expansion units, absorbers, and controls for, or suitable for use as parts of or with, household type refrigerators of the kind described in subsection (a) except when sold as component parts of complete refrigerators or refrigerating or cooling apparatus.

(c) *Air-conditioners.* Self-contained air-conditioning units.

PAR. 9. Section 316.70, as amended by Treasury Decision 5099, is further amended as follows:

(A) Following the title "Refrigerators, etc." the subtitle "(a) For the period October 1, 1941 to October 31, 1942, inclusive." is inserted.

(B) The fourth paragraph is changed to read as follows:

A manufacturer of an article taxable under section 3405 (a), as amended by section 546 of the Revenue Act of 1941, may purchase tax free for use as a component in the manufacture of such article any of the refrigerating apparatus specified in section 3405 (b), as amended by section 546 of the Revenue Act of 1941. (See § 316.71.) However, if any of the refrigerating apparatus specified in section 3405 (b) as so amended, is purchased tax paid and used as a component in the manufacture of an article taxable under such section 3405 (a) as amended, the manufacturer of the article may be allowed a credit to the extent of the tax paid on the refrigerating apparatus so used as a component. (See § 316.204.)

(C) The following paragraphs are added at the end thereof:

(b) *For the period beginning November 1, 1942.* Subsection (a) of section 3405, as amended by section 614 of the Revenue Act of 1942, imposes a tax on sales by the manufacturer of household type refrigerators (for single or multiple cabinet installations) having, or being primarily designed for use with, a mechanical refrigerating unit operated by electricity, gas, kerosene, or gasoline, and including in each case parts or accessories therefor sold on or in connection with the sale of the article.

The term "household type refrigerator" includes refrigerators for single or

multiple cabinet installations, which (1) are designed for domestic use, (2) are arranged to provide refrigerated storage space for the preservation of food products or low temperature space for making ice cubes and frozen desserts, (3) have a net storage space not exceeding 20 cubic feet, and (4) have, or are primarily designed for use with, a mechanical refrigerating unit operated by electricity, gas, kerosene, or gasoline.

The tax applies to all household type refrigerators, if primarily designed for use with a mechanical refrigerating unit operated by electricity, gas, kerosene, or gasoline; it is not necessary that such a mechanical refrigerating unit be sold on or in connection with the sale of the refrigerator.

A manufacturer of household type refrigerators taxable under section 3405 (a), as amended by section 614 of the Revenue Act of 1942, or other refrigerators, or refrigerating or cooling apparatus may purchase tax free for use as a component in the manufacture of such articles any of the refrigerating apparatus specified in section 3405 (b), as amended by section 614 of the Revenue Act of 1942. (See § 316.71.) However, if any of the refrigerating apparatus specified in such section 3405 (b) as amended, is purchased tax paid and used as a component in the manufacture of a household type refrigerator taxable under section 3405 (a) as amended, the manufacturer of such household type refrigerator may be allowed a credit to the extent of the tax paid on the refrigerating apparatus so used as a component. (See § 316.204.)

The tax does not apply to refrigerator cabinets which are primarily designed for use without a mechanical refrigerating unit.

PAR. 10. Section 316.71, as amended by Treasury Decision 5099, is further amended by inserting after the title "Refrigerating Apparatus." the subtitle "(a) For the period October 1, 1941 to October 31, 1942, inclusive." and by adding the following new paragraph:

(b) *For the period beginning November 1, 1942.* Subsection (b) of section 3405 as amended by section 614 of the Revenue Act of 1942, imposes a tax on sales by the manufacturer of cabinets, compressors, condensers, evaporators, expansion units, absorbers and controls for, or suitable for use as parts of or with, household type refrigerators of the kind described in section 3405 (a), as amended by section 614 of the Revenue Act of 1942, including in each case parts or accessories therefor sold on or in connection with the sale of the specified refrigerating apparatus. Sales of such refrigerating apparatus as component parts of complete refrigerators, or refrigerating or cooling apparatus are not subject to the tax.

PAR. 11. Section 316.72 amended by Treasury Decision 5099, is further amended by inserting after the title "Air-conditioners, and components." the following subtitle "(a) For the period October 1, 1941 to October 31, 1942, inclusive." and by adding the following new paragraph at the end thereof:

(b) *For the period beginning November 1, 1942.*—Subsection (c) of section 3405, as amended by section 614 of the Revenue Act of 1942, imposes a tax on sales by the manufacturer of self-contained air-conditioning units, including parts or accessories therefor sold on or in connection with the sale of such units.

PAR. 12. There is inserted immediately preceding § 316.120, as added by Treasury Decision 5099, the following:

SEC. 607. PHOTOGRAPHIC APPARATUS. (Revenue Act of 1942, Title VI.)

Section 3406 (a) (4) is amended to read as follows:

(4) *Photographic apparatus.* Cameras (except cameras weighing more than four pounds exclusive of lens and accessories) and lenses, photographic apparatus and equipment, and any apparatus or equipment designed especially for use in the taking of photographs or motion pictures or in developing, printing, or enlarging photographs or motion pictures, 25 per centum; unexposed photographic films (including motion picture films but not including X-ray film), photographic plates and sensitized paper, 15 per centum.

PAR. 13. Section 316.120, as added by Treasury Decision 5099, is amended as follows:

(A) The first paragraph is amended by adding at the end thereof the following:

Under section 3406 (a) (4), as amended by section 607 of the Revenue Act of 1942, increased rates of tax are imposed (see § 316.122), and the tax in the case of cameras is restricted to cameras weighing 4 pounds or less, exclusive of the lens and accessories. In all other respects, the scope of the tax under section 3406 (a) (4), as amended by section 607 of the Revenue Act of 1942, is identical to the scope of the tax as originally imposed under section 3406 (a) (4), as added by section 551 of the Revenue Act of 1941.

(B) The second paragraph is amended to read as follows:

The term "cameras" includes the entire assembly which is used for, or capable of use in, the taking of still or motion pictures. For the period prior to November 1, 1942, the tax applies to all cameras regardless of weight; for the period beginning with November 1, 1942, cameras weighing more than 4 pounds exclusive of lens and accessories are specifically excluded by law from the scope of the tax.

PAR. 14. Section 316.122, as added by Treasury Decision 5099, is amended to read as follows:

§ 316.122 *Rates of tax.* For the period prior to November 1, 1942, the tax is payable by the manufacturer at the rate of 10 per cent of the sale price.

For the period beginning with November 1, 1942, the tax is payable by the manufacturer at the following rates:

25 per cent of the sale price. Cameras; lenses; photographic apparatus and equipment; and any apparatus or equipment designed especially for use in the taking of photographs or motion pictures, or in developing, printing, or enlarging photographs or motion pictures.

15 per cent of the sale price. Unexposed photographic films (including motion picture

films but not including X-ray film); photographic plates; and sensitized paper.

In each case, the taxable sale price shall be determined in accordance with the provisions of §§ 316.8 to 316.15, inclusive.

PAR. 15. There is inserted immediately preceding § 316.130, as added by Treasury Decision 5099, the following:

SEC. 611. TERMINATION OF CERTAIN EXCISE TAXES. (Revenue Act of 1942, Title VI.)

The taxes imposed by the following provisions shall not apply to the sale, by the manufacturer, producer, or importer, after the effective date of this Title, of the articles taxable under such provisions:

(a) Section 3406 (a) (5) of the Internal Revenue Code (relating to tax on electric signs).

PAR. 16. There is inserted immediately following section 316.131, as added by Treasury Decision 5099, the following new section:

§ 316.132 *Termination of tax.* The tax imposed by section 3406 (a) (5) on sales of neon-tube signs, electric signs, and electric advertising devices by the manufacturer does not apply to sales made on and after November 1, 1942.

PAR. 17. There is inserted immediately preceding § 316.140, as added by Treasury Decision 5099, the following:

SEC. 615. EXEMPTION OF CERTAIN CASH REGISTERS. (Revenue Act of 1942, Title VI.)

Section 3406 (a) (6) (relating to tax on business and store machines) is amended by inserting after "cash registers" the following: ", except cash registers of the type used in registering over-the-counter retail sales".

PAR. 18. Section 316.140 as added by Treasury Decision 5099, is amended by adding a new paragraph at the end thereof, as follows:

The tax does not apply to sales on and after November 1, 1942, of cash registers of the type used in registering over-the-counter retail sales.

PAR. 19. There is inserted immediately preceding § 316.150, as added by Treasury Decision 5099, the following:

SEC. 611. TERMINATION OF CERTAIN EXCISE TAXES. (Revenue Act of 1942, Title VI.)

The taxes imposed by the following provisions shall not apply to the sale, by the manufacturer, producer, or importer, after the effective date of this Title, of the articles taxable under such provisions:

(b) Section 3406 (a) (7) of the Internal Revenue Code (relating to tax on rubber articles).

PAR. 20. There is inserted immediately following § 316.151, as added by Treasury Decision 5099, the following new section:

§ 316.152 *Termination of tax.* The tax imposed by section 3406 (a) (7) on sales of rubber articles by the manufacturer does not apply to sales made on and after November 1, 1942.

PAR. 21. There is inserted immediately preceding § 316.160, as added by Treasury Decision 5099, the following:

SEC. 611. TERMINATION OF CERTAIN EXCISE TAXES. (Revenue Act of 1942, Title VI.)

The taxes imposed by the following provisions shall not apply to the sale, by the manufacturer, producer, or importer, after the effective date of this Title, of the articles taxable under such provisions:

(c) Section 3406 (a) (8) of the Internal Revenue Code (relating to tax on washing machines).

PAR. 22. There is inserted immediately following § 316.161, as added by Treasury Decision 5099, the following new section:

§ 316.162 *Termination of tax.* The tax imposed by section 3406 (a) (8) on sales of washing machines of the kind used in commercial laundries by the manufacturer does not apply to sales made on and after November 1, 1942.

PAR. 23. There is inserted immediately preceding § 316.170, as added by Treasury Decision 5099, the following:

SEC. 611. TERMINATION OF CERTAIN EXCISE TAXES. (Revenue Act of 1942, Title VI.)

The taxes imposed by the following provisions shall not apply to the sale, by the manufacturer, producer, or importer, after the effective date of this Title, of the articles taxable under such provisions:

(d) Section 3406 (a) (9) of the Internal Revenue Code (relating to tax on optical equipment).

PAR. 24. There is inserted immediately following § 316.171, as added by Treasury Decision 5099, the following new section:

§ 316.172 *Termination of tax.* The tax imposed by section 3406 (a) (9) on sales of optical equipment by the manufacturer does not apply to sales made on and after November 1, 1942.

(Secs. 601, 607, 610, 611, 614, 615 and 618 (b) of the Revenue Act of 1942 (Public Law 753, 77th Congress, 2d Session), and section 3791 of the Internal Revenue Code (53 Stat., 467; 26 U.S.C., 3791).

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: November 30, 1942.

JOHN R. SULLIVAN,
Acting Secretary of the Treasury.

[F.R. Doc. 42-12739; Filed, December 1, 1942; 4:25 p. m.]

TITLE 29—LABOR

Subtitle A—Office of the Secretary

PART 3—DETERMINATIONS RELATING TO OVERTIME, SUNDAY, AND HOLIDAY PAY

TEMPORARY STAY OF APPLICATION OF EXECUTIVE ORDER TO SHIPBUILDING AND SHIP REPAIR INDUSTRY

Upon the request of the Chairman of the Shipbuilding Stabilization Committee, it is ordered, pursuant to the authority vested in me by Executive Order 9248,¹ that the temporary stay of appli-

¹ 7 F.R. 7419.

cation of Executive Order 9240² entitled "Regulations Relating to Overtime Wage Compensation" to work in the Shipbuilding and Ship Repair Industry, which is subject to the Zone Standards Agreements for the Shipbuilding and Ship Repair Industry and the Pacific Coast Repair Agreements, granted by me by Order dated September 30, 1942,³ for a period of 60 days from October 1, 1942, is further extended until January 31, 1943.

Dated: November 29, 1942.

FRANCES PERKINS,
Secretary of Labor.

[F.R. Doc. 42-12742; Filed, December 1, 1942; 4:35 p. m.]

Chapter VIII—Commissioner of Internal Revenue

[T.D. 5186]

PART 1002—STABILIZATION OF SALARIES

On October 27, 1942, the President approved regulations relating to wages and salaries prescribed by the Economic Stabilization Director (7 F.R. 8748) under the Act of October 2, 1942, entitled "An Act to amend the Emergency Price Control Act of 1942, to aid in preventing inflation, and for other purposes" (Public No. 729, 77th Congress, 2d Session) and Executive Order No. 9250, dated October 3, 1942 (7 F.R. 7871). Those regulations conferred on the Commissioner of Internal Revenue authority to administer the provisions thereof relating to the stabilization and limitation of certain salaries. In the exercise of the authority so conferred on the Commissioner of Internal Revenue, the following regulations relating to salaries are hereby promulgated.

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1002.3 Executive employees.
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SUBPART D—SALARY DECREASES

- 1002.15 Salaries under \$5,000.
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SUBPART E—GOVERNMENTAL EMPLOYEES

- 1002.17 State and local employees.

SUBPART F—LIMITATIONS ON CERTAIN SALARIES

- 1002.18 Basic allowance.
1002.19 Charitable contributions.
1002.20 Insurance premiums.
1002.21 Fixed obligations.

² 7 F.R. 7159.

³ 7 F.R. 7801.

Sec.	
1002.22	Federal taxes.
1002.23	Multiple employers.
1002.24	Limitation on 1942 salaries.
1002.25	Community property.
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SUBPART G—EFFECT OF UNLAWFUL PAYMENTS

1002.28	Amounts disregarded.
1002.29	Criminal penalties.
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SUBPART H—EXEMPTIONS

1002.31	Exempt employers.
1002.32	Statutory salaries.
1002.33	Services in foreign countries.
1002.34	Foreign employers.

AUTHORITY: §§ 1002.1 to 1002.34, inclusive, issued under Pub. Law 729, 77th Cong., E.O. 9250, 7 F.R. 7871; Regs. of Economic Stabilization Director, dated October 27, 1942, 7 F.R. 8748.

SUBPART A—DEFINITIONS

§ 1002.1 *General terms.* When used in these regulations, unless otherwise distinctly expressed or manifestly incompatible with the intent thereof:

(a) The term "Act" means the Act of October 2, 1942 (Public No. 729, 77th Congress) entitled "An Act to amend the Emergency Price Control Act of 1942, to aid in preventing inflation, and for other purposes".

(b) The term "Board" means the National War Labor Board created by Executive Order No. 9017, dated January 12, 1942 (7 F.R. 237).

(c) The term "Commissioner" means the Commissioner of Internal Revenue.

(d) The term "Code" means the Internal Revenue Code, as amended and supplemented.

(e) The term "person" has the same meaning as when used in the Code.

(f) The term "General Regulations" means regulations (relating to wages and salaries) issued by the Economic Stabilization Director, approved by the President on October 27, 1942 (7 F.R. 8748), and as amended or supplemented by subsequent regulations issued by the Economic Stabilization Director relating to wages and salaries.

(g) The term "in contravention of the Act" means in contravention of the Act of October 2, 1942 (referred to in paragraph (a) above), Executive Order No. 9250 of October 3, 1942 (7 F.R. 7871), the General Regulations, these regulations and other rulings and regulations promulgated under such Act.

§ 1002.2 *Employee and employer.* An employee, for the purposes of these regulations, is an individual who performs services for compensation where the relationship between him and the person for whom he performs the services is the legal relationship of employee and employer. An employer is any person for whom an individual performs any services, of whatever nature, as the employee of such person. The term "employer" is not limited to private persons engaged in trade or business, but includes organizations which, under section 101 of the Code, are exempt from income taxation, and also government departments and agencies. The existence of the legal relationship of employer and employee is to be ascertained in the

light of the general purposes of the Act and the General Regulations.

Generally, the legal relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work done, but also as to the details and means by which that result is accomplished. An employee is generally subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection it is unnecessary that the employer actually direct or control the precise manner in which the services are performed; it is sufficient that he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer.

Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not an employee as to such services. Physicians, lawyers, architects, contractors and others who follow an independent trade, business or profession in which they offer their services to the public are generally independent contractors and not employees. Whether the relationship of employer-employee exists will be determined upon an examination of the particular facts of each case.

If the relationship of employer and employee exists the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. If such relationship exists, it is of no consequence that the employee is designated as a partner, co-adventurer, agent or independent contractor. The measurement, method, or designation of compensation is immaterial if the relationship of employer and employee thus in fact exists.

An officer of a corporation is an employee of the corporation but a director as such is not. A director may be an employee of the corporation, however, if he performs services for the corporation other than those required by attendance at and participation in meetings of the board of directors.

§ 1002.3 *Executive employees.* An individual "employed in a bona fide executive capacity" means any employee:

(a) Whose primary duty consists of the management of the establishment in which he is employed or of a customarily recognized department or subdivision thereof, and

(b) Who customarily and regularly directs the work of other employees, and

(c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the

hiring or firing and as to the advancement and promotion or any change of status of other employees will be given particular weight, and

(d) Who customarily and regularly exercises discretionary powers, and

(e) Who is compensated for his services on a salary basis at not less than \$30 per week (exclusive of board, lodging, or other facilities), and

(f) Whose hours of work of the same nature as that performed by employees not employed in an executive, administrative or professional capacity do not exceed 20 percent of the total number of hours worked in the workweek by the employees under his direction: *Provided*, That this subparagraph (f) shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment.

§ 1002.4 *Administrative employees.* An individual "employed in a bona fide administrative capacity" means any employee:

(a) Who is compensated for his services on a salary or fee basis at a rate of not less than \$200 per month (exclusive of board, lodging, or other facilities), and

(b) (1) Who regularly and directly assists an employee employed in a bona fide executive or administrative capacity (as such terms are defined in these regulations), where such assistance is non-manual in nature and requires the exercise of discretion and independent judgment; or

(2) Who performs under only general supervision, responsible nonmanual office or field work, directly related to management policies or general business operations, along specialized or technical lines requiring special training, experience, or knowledge, and which requires the exercise of discretion and independent judgment; or

(3) Whose work involves the execution under only general supervision of special nonmanual assignments and tasks directly related to management policies or general business operations involving the exercise of discretion and independent judgment; or

(4) Who is engaged in transporting goods or passengers for hire and who performs, under only general supervision, responsible outside work of a specialized or technical nature requiring special training, experience, or knowledge, and whose duties require the exercise of discretion and independent judgment.

§ 1002.5 *Professional employees.* Any individual "employed in a bona fide professional capacity" means any employee who is:

(a) Engaged in work—

(1) Predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work, and

(2) Requiring the consistent exercise of discretion and judgment in its performance, and

(3) Of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time, and

(4) Whose hours of work of the same nature as that performed by employees not employed in an executive, administrative or professional capacity do not exceed 20 percent of the hours worked in the workweek by such employees; provided that where such non-professional work is an essential part of and necessarily incident to work of a professional nature, this subparagraph (4) shall not apply, and

(5) (i) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes; or

(ii) Predominantly original and creative in character in a recognized field of artistic endeavor as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training, and the result of which depends primarily on the invention, imagination, or talent of the employee, and

(b) Compensated for his services on a salary or fee basis at a rate of not less than \$200 per month (exclusive of board, lodging, or other facilities); provided that this paragraph (b) shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof.

§ 1002.6 *Salary payments.* The terms "salary" and "salary payment" mean only such salaries over which the Commissioner has jurisdiction. (See § 1002.10 of these regulations.) These terms are not used in any restricted, narrow or technical sense, but encompass all forms of direct or indirect compensation for personal services of an employee which is computed on a weekly, monthly, annual or other basis, other than wages (as defined in the General Regulations and in orders or rulings of the Board). Bonuses, gifts, loans, commissions, fees, additional compensation and any other remuneration in any form or medium whatsoever are considered as falling within the concept of "salary" or "salary payment". Any compensation which is not regarded as wages in the commonly accepted sense of the term is salary notwithstanding that it may be computed on an hourly, daily or piece-work basis.

Retainer fees paid to an individual, not otherwise an employee, are not to be considered as salary. Insurance and pension benefits in a reasonable amount (see § 1002.8) are likewise excluded from the terms "salary" and "salary payment".

Although the terms "salary" and "salary payment" do not include any compensation other than for personal services of an employee, the Commissioner is not precluded from determining, after investigation, that amounts denominated, for example, as rents or royalties are in fact salary payments subject to

the controls set forth in these regulations.

All amounts paid to, authorized to be paid to, or accrued to the account of any employee during a calendar year for services rendered or to be rendered are to be included as salary for such year.

§ 1002.7 *Salary rate.* The term "salary rate" means the rate or aggregate of rates or other basis at which the salary for any particular work or service is computed, either under the terms of a contract or agreement, express or implied, or in conformity with custom or usage existing in the employer's business establishment. For treatment of commissions and bonuses on a percentage basis see § 1002.14.

§ 1002.8 *Insurance and pension benefits.* Compensation may include insurance and pension benefits. In determining the amount of salary of an employee, the insurance or pension benefit inuring to such employee is not measured by what he will be entitled to receive after the happening of certain contingencies, but rather in terms of the amount of contributions or premiums paid by the employer. To the extent that an insurance and pension benefit inuring to an employee is reasonable in amount, such benefit is not considered as salary as defined in § 1002.6.

Section 165 (a) of the Code sets forth the conditions under which a trust forming part of a stock bonus, pension or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries shall not be taxable for Federal income tax purposes. Contributions by an employer to an employees' trust or under an annuity plan, which trust or plan meets the exemption requirements of such section 165 (a) (as of the date the contributions are made), shall be considered as reasonable, regardless of the amount of such contributions. On the other hand, contributions by an employer to an employees' trust which is subject to Federal income taxation because it does not meet the requirements of such section 165 (a) shall be treated, for purposes of these regulations, as salary.

To the extent amounts paid by an employer on account of insurance premiums on a policy on the life of an employee are deductible by the employer in computing net income under the conditions set forth in section 23 (a) of the Code (relating to deductions for ordinary and necessary business expenses), such amounts are not considered as salary. The amount of insurance premiums that will be considered as falling outside the concept of salary cannot exceed the amount of such premiums deductible by the employer for Federal income tax purposes. If, however, such insurance premiums are includible in the gross income of the employee (for whose benefit the insurance has been taken out), as well as deductible by the employer, the amount which shall not be considered as salary in respect of such employee may not exceed 5 percent of the employee's annual salary determined

without the inclusion of insurance and pension benefits.

The application of the preceding paragraph may be illustrated by the following examples. An employer having 20 salaried employees takes out life insurance policies on each of such employees in favor of beneficiaries designated by them. The premiums paid for 10 of the employees are in each instance 7 percent of the employee's annual salary (exclusive of insurance and pension benefits). As to the remaining 10 employees the premiums in each instance are 5 percent of the employee's annual salary (exclusive of insurance and pension benefits). It is assumed that with respect to each employee the premium paid would be includible in his gross income under the Code and would be deductible by the employer under section 23 (a) of the Code. As to the first 10 employees 2 percent of the premiums in each instance will be considered as salary, whereas no part of the premiums will be considered as salary in the case of the second group of employees. If, however, none of the premiums were deductible in computing the net income of the employer, then the entire amount of the premium in each instance would be considered as salary to the employee involved.

Premiums paid by an employer on policies of group life insurance without cash surrender value covering the lives of his employees, or on policies of group health or accident insurance, the beneficiaries of which are designated by such employees, do not constitute salary (regardless of the amount of salary otherwise received annually by such employees) if such premiums are deductible by the employer under section 23 (a) of the Code.

§ 1002.9 *Approval by Commissioner.* Wherever the terms "approval by the Commissioner" and "determination by the Commissioner" are used in these regulations they shall, except as otherwise provided, include an approval or determination by a regional officer of the Salary Stabilization Unit established by the Commissioner under Treasury Decision 5176, which officer is authorized to make such determination. If an approval or determination made by such regional officer is subsequently modified or reversed by the Commissioner, such approval or determination shall be deemed to have been continuously in effect from its original date until the first day of the payroll period following reversal or modification, or until such later date as the Commissioner may provide in his ruling.

To illustrate, an employer obtains the approval of a regional officer of the Salary Stabilization Unit that a proposed increase in certain salaries is permissible. The approval is given on January 2, 1943, and the salary increase is to become effective January 15, 1943. On March 15, 1943, the Commissioner determines that the salary increase was not proper and reverses the approval given by the regional officer. The Commissioner provides in his ruling that the increase in salary shall be discontinued after March 31, 1943. For purposes of

these regulations, no part of the salary for the period between January 15 and March 31 shall be considered to have been in contravention of the Act.

SUBPART B—JURISDICTION OF COMMISSIONER

§ 1002.10 Amount of salary payment. (a) The General Regulations provide that the Commissioner shall have authority to determine, under regulations to be prescribed by the Commissioner with the approval of the Secretary of the Treasury, whether salary payments are made in contravention of the Act. The Commissioner's jurisdiction is confined to:

(1) Salary payments in excess of \$5,000 per annum, in the case of individuals employed in any capacity whatsoever; and

(2) Salary payments of \$5,000 or less per annum, in the case of individuals (i) who are employed in bona fide executive, administrative or professional capacities, and (ii) who, in their relations with their employer, are not represented by duly recognized or certified labor organizations, and (iii) whose services are not within the meaning of "agricultural labor" as defined in paragraph (1) of § 4001.1 of the General Regulations.

Other salary payments are subject either to the jurisdiction of the Board or the Secretary of Agriculture, as prescribed in the General Regulations. If, for example, a salary is to be increased from \$4500 per annum to \$5200 per annum (and subparagraph (2) is inapplicable), approval of such increase, if required, must be obtained from the Board.

§ 1002.11 Conclusiveness of determination. (a) Any determination by the Commissioner that a salary payment is in contravention of the Act is conclusive in every respect upon all executive departments and agencies of the Federal Government for the following purposes:

(1) Determining costs or expenses of any employer for the purpose of any law or regulation, either heretofore or hereafter enacted or promulgated, including the Emergency Price Control Act of 1942, or any maximum price regulation thereunder;

(2) Calculating deductions under the revenue laws of the United States; or

(3) Determining costs or expenses under any contract made by or on behalf of the United States.

(b) Any such determination of the Commissioner is final and not subject to review by The Tax Court of the United States or by any court in any civil proceedings. Nothing herein is intended, however, to deny the right of any employer or employee to contest in The Tax Court of the United States or in any court of competent jurisdiction the validity of:

(1) Any provision of these regulations, on the ground such provision is not authorized by law, or

(2) Any action taken or determination made under these regulations, on the ground that such action or determination is not authorized, or has not been taken or made in a manner required, by law.

(c) No increase in salary rate shall result in any substantial increase of the level of costs or furnish the basis either to increase price ceilings of the commodity or service involved or to resist otherwise justifiable reductions in such price ceilings.

§ 1002.12 Geographical scope. The provisions of these regulations shall not apply to salaries in any Territory or possession of the United States, except Alaska and Hawaii.

SUBPART C—SALARY INCREASES

§ 1002.13 Commissioner's approval required. Section 1 of the Act provides in effect that salaries, so far as practicable, shall be stabilized at the levels which existed on September 15, 1942. In the case of a salary rate of \$5,000 or less per annum existing on October 27, 1942, or established thereafter in compliance with these regulations, and in the case of a salary rate of more than \$5,000 per annum existing on October 3, 1942, or established thereafter in compliance with these regulations, no increase shall be made by the employer, except as provided in § 1002.14, without prior approval of such increase by the Commissioner. Any salary increase made before the required approval of the Commissioner is obtained is from the date of such increase in contravention of the Act. (See §§ 1002.28 and 1002.29 for the consequences of a salary payment made in contravention of the Act.) The Commissioner may, however, approve an increase in salary rate to be effective as of the date of the application for approval.

The burden of justifying an increase in salary rate shall in every instance be upon the employer seeking to make such increase. Increases in salary rates will not be approved unless necessary to correct maladjustments or inequalities, or to aid in the effective prosecution of the war. A promise made by an employer to his employees prior to October 3, 1942 that salaries would be increased in the future is generally to be ignored in determining whether an increase after that date should be approved. The same rule is applicable with respect to a promise made by an employer prior to October 27, 1942, in the case of employees whose salary rates are \$5,000 or less per annum. A salary increase, however, may be approved, as to salaries below \$5,000 per annum, if to deny such increase would be to force the continuation of a salary which is below the general level existing for the same or comparable work in the local area on September 15, 1942.

An employer who has established a new job classification, or who has begun business, after October 3, 1942, must obtain approval of the Commissioner for the payment of salaries for such job classification or in such new business: *Provided, however,* That if the salary rates in question are not in excess of those prevailing for similar job classifications within the local area, the approval of the Commissioner is not required. An increase in a salary rate for a job classification established after October 3, 1942, shall be subject to the limitations provided in this Subpart.

A mere change in the name, organization, or financial structure of an employer, whether such employer be an individual, partnership or corporation, will not in itself be sufficient for a finding that, for the purposes of these regulations, a new business has been begun or new job classification established after such change.

Any change in a salary rate, regardless of its effective date, which results from an award or decision of an arbitrator or referee made after October 3, 1942, in the case of salaries of more than \$5,000 per annum, and after October 27, 1942 in the case of salaries of \$5,000 or less per annum, is subject to the provisions of these regulations notwithstanding that the agreement or order for arbitration or reference was made on or before October 3, 1942 or October 27, 1942, as the case may be.

Unless otherwise expressly exempted, any change in a salary rate, provided for in any agreement existing as of October 3, 1942 in the case of salaries of more than \$5,000 per annum, or as of October 27, 1942 in the case of salaries of \$5,000 or less per annum, which is to take effect at some future date or on the happening of some future event, is subject to the provisions of these regulations regardless of when the agreement was made.

Payment for overtime will constitute an increase in salary rate, and thus will require the approval of the Commissioner, unless the customary practice of the employer has been to pay for overtime, and the rate has not been changed.

Except as may be otherwise provided from time to time by the Commissioner, an application for the approval of a salary increase shall be filed by the employer with the regional office of the Salary Stabilization Unit of the Bureau of Internal Revenue in whose territorial jurisdiction the main office or principal place of business of the employer is located. Such application shall be filed on forms prescribed by the Commissioner and shall contain such information as may be required by the Commissioner.

§ 1002.14 Commissioner's approval not required. The Commissioner's approval is not required where an increase in salary rate is made in accordance with the terms of a salary agreement or salary rate schedule in effect on October 3, 1942, or approved thereafter by the Commissioner, and is a result of:

(1) Individual promotions or reclassifications,

(2) Individual merit increases within established salary rate ranges,

(3) Operation of an established plan of salary increases based on length of service,

(4) Increased productivity under incentive plans,

(5) Operation of a trainee system, or

(6) Such other reasons or circumstances as may be prescribed in rulings or regulations promulgated by the Commissioner from time to time.

For purposes of this section, the term "salary agreement" or "salary rate schedule" may include a salary policy

in effect on October 3, 1942, even though not evidenced by written contracts or written rate schedules. For example, a salary policy may be determined from previous payroll records or other payroll data. The existence of such policy; however, must be established to the satisfaction of the Commissioner, and the burden of proof rests upon the employer. In such cases, the employer in advance of making an increase in salary rate may reduce the salary policy to writing and secure approval thereof by the Commissioner.

A bonus or other form of additional compensation which does not exceed in amount the bonus or other additional compensation to such employee for the last bonus year ending before October 3, 1942 does not require approval by the Commissioner. In addition a bonus based upon a fixed percentage of salary where the percentage has not been changed, does not require approval by the Commissioner even though the amount may be increased due to an authorized increase in salary. Any other bonus or other form of additional compensation requires approval by the Commissioner. Where the compensation, or part thereof, is paid on a commission basis and is based upon a fixed percentage (which has not been changed) of sales made by the employee, a payment does not require approval by the Commissioner even though the amount may represent an increase due to increased sales by the employee. See, however, Subpart F of these regulations.

The provisions of this section may be illustrated as follows:

(1) The X Corporation began business in 1940. As of July 1, 1942, pursuant to a corporate resolution duly passed in January 1942, all of its salaried employees received more than \$5,000 per annum. No approval of the Commissioner is required to increase the salary of an employee who is promoted in November 1942 from a salesman to general manager and who receives a salary within the salary range paid previously to individuals occupying the position of general manager.

(2) The X Corporation in December 1942 wishes to establish a new salary rate schedule raising the level of compensation of all its salaried employees. Approval by the Commissioner of such schedule is required. Assuming that such approval has been obtained, further approval by the Commissioner of any adjustment under such schedule coming within this section is not required.

(3) The Y Corporation begins business on November 1, 1942. The salaries paid by it to its employees are commensurate with salaries paid by other employers in comparable businesses in the same local area. Payment of such salaries does not require the approval of the Commissioner. Any increase in salary rates, however, requires the approval of the Commissioner.

(4) The M Corporation, which has manufactured furniture since 1925, is reorganized in November 1942 and emerges from the reorganization proceedings as the N Corporation. There is no change in the nature of the business although there is a substantial alteration in the financial structure of the company. The N Corporation is not to be treated as a new employer beginning business after October 27, 1942. Consequently, any general increase in salaries over and above those paid by the M Corporation requires the prior approval of the Commissioner.

(5) Employees of the Z Corporation have customarily received a bonus of 5 percent

of their annual salary at the end of each calendar year. If, for example, one of the employees received \$6,000 in 1941 but received salary of \$7,000 in 1942 due to a salary increase on July 1, 1942, a bonus of \$350 may be paid to him for 1942 without prior approval of the Commissioner, notwithstanding that his bonus for 1941 was only \$300.

SUBPART D—SALARY DECREASES

§ 1002.15 *Salaries under \$5,000.* In the case of a salary rate existing as of the close of October 3, 1942, or established thereafter in compliance with these regulations, under which an employee is paid a salary of less than \$5,000 per annum for any particular work, the general rule is that no decrease can be made by the employer in such salary rate below the highest salary rate paid for such work in the local area between January 1, 1942, and September 15, 1942. A decrease is permitted, however, with the approval of the Commissioner, in order to correct a gross inequity in any case or to aid in the effective prosecution of the war. Where such decrease is permitted the salary rate may be reduced below the highest salary rate paid for the work in question between January 1, 1942 and September 15, 1942. Except as otherwise provided in this section, any decrease in such salary rate after October 3, 1942 shall be considered in contravention of the Act if it is made prior to the approval thereof by the Commissioner.

Except as may be otherwise provided from time to time by the Commissioner, an application for approval of any salary decrease shall be filed in the same manner as in the case of an application for approval of a salary increase. See § 1002.13 of these regulations.

The Commissioner's approval is not required, for example, in the following cases where salary decreases are made after October 3, 1942:

(1) The new salary rate does not fall below the highest salary rate existing between January 1, 1942 and September 15, 1942 for the particular work in question or for the same or comparable work in the local area.

(2) An employee has been demoted to a lower position than that filled by him between January 1, 1942 and September 15, 1942 and the salary rate for such lower position is not less than the highest salary rate existing for that position during the same period.

(3) An employee has been relieved of substantial duties and responsibilities.

A disparity between salaries paid by a particular employer and those paid by employers generally in the local area does not necessarily constitute justification for decrease in salary rates paid by such employer.

§ 1002.16 *Salaries over \$5,000.* In the case of a salary rate existing as of the close of October 3, 1942, or established thereafter in compliance with these regulations, under which an employee is paid a salary of more than \$5,000 per annum, the employer is permitted to make, without approval by the Commissioner, a decrease to a rate not less than \$5,000 per annum. If, however, by virtue of a decrease the new salary paid to the employee is less than \$5,000 per

annum, then the decrease below \$5,000 per annum is subject to the limitations of § 1002.15 of these regulations. To the extent that prior approval by the Commissioner of a decrease is not required under § 1002.15 or this section, such decrease shall not be considered as being in contravention of the Act.

SUBPART E—GOVERNMENTAL EMPLOYEES

§ 1002.17 *State and local employees.* An adjustment in salaries (not fixed by statute, see § 1002.32) may be made by a State, or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing, on certification to the Commissioner that such adjustment is necessary to correct maladjustments, or to correct inequalities or gross inequities. The certification procedure shall not apply to any adjustment which would not otherwise require the Commissioner's approval or which would raise salaries beyond the prevailing level of compensation for similar services in the area, or community. A certificate by the official or agency authorizing the adjustment stating the nature and amount of such adjustment, and briefly setting forth the facts meeting the foregoing requirement, will be accepted by the Commissioner as sufficient evidence of the propriety of the adjustment, subject to review by the Commissioner. Modification by the Commissioner of adjustments made by a governmental official or agency acting pursuant hereto shall not be retroactive.

In exceptional cases where such an adjustment is sought, and in all cases where the agency seeks an adjustment other than by the certification procedure, application for approval shall be filed with the appropriate regional office of the Salary Stabilization Unit.

SUBPART F—LIMITATIONS ON CERTAIN SALARIES

§ 1002.18 *Basic allowance.* In addition to setting forth limitations on increases and decreases in salary rates, the General Regulations provide a ceiling on the amount of salary which may be paid to any employee during a calendar year. The general rule is that no amount of salary may be paid or authorized to be paid to or accrued to the account of any employee or received by him during the calendar year 1943, and in each succeeding calendar year, which, after reduction by the Federal income taxes on the amount of salary, computed as below without regard to other income and without regard to deductions or credits, would exceed \$25,000. Additional allowances of salary which may be permitted in certain circumstances are described in §§ 1002.19 to 1002.22, inclusive.

The amount of Federal income taxes referred to in the preceding paragraph shall be determined:

(1) By applying to the total amount of salary (but not including any amounts allowable under §§ 1002.19 to 1002.22, inclusive, of these regulations) paid or accrued during the calendar year in question, undiminished by any deductions, the rates of taxes imposed by Chapter 1 of the Code (except section 466 thereof relating to withholding) as if such total

amount of salary were the net income (after the allowance of the appropriate credits), the surtax net income, and the Victory tax net income, respectively; and

(2) Without further allowance of any other credits against any of such taxes.

Assume that the rates imposed under Chapter 1 of the Code, as amended by the Revenue Act of 1942, are applicable with respect to the calendar year 1943. Under the formula described in the preceding paragraph, the basic allowance of salary for 1943 (which after reduction by the Federal income taxes would yield \$25,000) is \$67,200. This latter amount is the maximum amount of salary which an employee would be permitted to receive for 1943, provided he is not entitled to further allowances under §§ 1002.19 to 1002.22, inclusive. If the rates of Federal income tax applicable for 1943 should be increased above those now existing in the Code for 1942, the basic allowance of salary will be an amount greater than \$67,200.

The basic allowance of salary as described in this section represents an amount against which the appropriate tax rates are applied and remains the same regardless of whether the employee is married or single or of the number of his dependents, if any. It is likewise unaffected by the nature or amount of his other income (taxable or exempt) or by the extent of his deductions allowable for tax purposes generally.

For purposes of this subpart an amount of salary, in addition to the basic allowance of salary, will be permitted for any expenses paid or incurred by an employee which are ordinary and necessary for the performance of the services for which the employee is compensated. No such additional amount, however, shall be permitted for expenses which would not be deductible in computing individual Federal income taxes.

§ 1002.19 Charitable contributions. An amount of salary, in addition to the basic allowance of salary described in § 1002.18, will be permitted in certain circumstances to allow an employee to maintain his customary contributions to charitable, educational or other organizations described in section 23 (c) of the Code. Such additional amount of salary will be permitted if the employee establishes to the satisfaction of the Commissioner that after resorting to his other income from all sources he would suffer undue hardship in maintaining his customary contributions out of the basic allowance of salary described in the preceding section.

For purposes of this section and §§ 1002.20, 1002.21, and 1002.22, "income from all sources" includes income which is exempt under the Federal income tax laws.

What constitutes "undue hardship" for purposes of this section and §§ 1002.20, 1002.21, and 1002.22, is dependent upon all the circumstances in each case.

Contributions may be customary within the meaning of this section even though in the particular year in question the organizations to which the contributions are made are different from those

to whom contributions were made in previous years.

§ 1002.20 Insurance premiums. An amount of salary, in addition to the basic allowance under § 1002.18 may be permitted to an employee under this section to meet certain payments during the employee's taxable year for insurance premiums. To be entitled to such extra allowance of salary the employee must establish to the satisfaction of the Commissioner that after resorting to other income from all sources (see § 1002.19) he is unable, without disposing of assets at a substantial financial loss resulting in undue hardship, to meet premium payments on policies of life insurance in force and effect on October 3, 1942 on his life.

The premium payments referred to in the preceding paragraph are those which are required to be met during the calendar year in question. No allowance for salary is permissible for payments of premiums which are due in future calendar years.

If any insurance has been permitted by an employee to lapse after October 3, 1942, no allowance for salary is permissible for payments of premiums on policies taken out after such date, even though the total annual premiums on the new policies are not in excess of the total annual premiums due on policies in effect on October 3, 1942. Renewal of policies in effect on October 3, 1942 (even though new premiums are higher) will not preclude applicability of this section to premium payments on the renewed policies. Generally, in the case of a conversion of a policy in effect on October 3, 1942 to a new policy requiring payment of higher premiums, this section is inapplicable to the annual amount by which the new premiums exceed the premiums in effect on October 3, 1942.

As used in this section, and §§ 1002.21 and 1002.22, substantial financial loss is not necessarily confined to a loss suffered on disposition of assets at depressed prices substantially below cost to the employee. The present value in use or in production of income and the potential future value are factors to be considered. For the purpose of this subpart, the provisions of the Code governing the determination of loss upon disposition of assets are not controlling.

§ 1002.21 Fixed obligations. An amount of salary in addition to the basic allowance under § 1002.18 may be permitted to an employee under this section to make required payments during the employee's taxable year on fixed obligations. Before any amount will be allowed under this section, the employee must establish to the satisfaction of the Commissioner that after resorting to his income from all sources (see § 1002.19), he is unable, without the necessity of disposing of assets at a substantial financial loss resulting in undue hardship, to meet required payments of fixed obligations for which he was obligated on October 3, 1942. (See § 1002.20.)

The term "fixed obligations" as used in this section means any enforceable liability of the employee the amount of

which liability was fixed and determined on October 3, 1942. In no event is an allowance for salary permissible under this section for the payment of any amount due in future years.

§ 1002.22 Federal taxes. An amount of salary in addition to the basic allowance under § 1002.18 may be permitted to an employee, under this section, to meet payments during the employee's taxable year of certain Federal income taxes. To be entitled to such an additional allowance of salary the employee must establish to the satisfaction of the Commissioner that after resorting to his income from all sources (see § 1002.19), he is unable, without disposing of assets at a substantial financial loss resulting in undue hardship, to meet payments of certain Federal income taxes, more fully described below. (See § 1002.20.)

An allowance for additional salary is permissible in order to pay Federal income taxes owed by the employee himself for any prior taxable year, but is not permissible in order to pay any Federal income tax due on the basic allowance of salary under § 1002.18, except as this allowance is applicable for 1942. See § 1002.24. Thus, an amount for additional salary might be allowable in 1943 to meet the payment of the entire Federal income tax due on a salary received in 1942. In 1944 an amount for additional salary might be allowable to meet the payment of Federal income tax due on additional salary allowances permitted for 1943 under §§ 1002.19, 1002.20, 1002.21 and this section for 1943; but no amount, however, would be allowable to meet the payment of the Federal income tax due on the basic allowance under § 1002.18 for 1943.

§ 1002.23 Multiple employers. Salaries payable to an employee from more than one employer may, for purposes of Subpart F, be treated as if all such salaries were payable by a single employer, regardless of the financial or other relationship of the several employers. For example, individual A receives a salary as an employee of the X Corporation and also as an employee of its subsidiary, the Y Corporation. Both the X Corporation and the Y Corporation are required to adjust their salary arrangements with such employee to conform with the provisions of these regulations. If individual B is employed by the M Corporation and the N Corporation, both of whom are owned, directly or indirectly, by the same person or persons, the M Corporation and the N Corporation must adjust their salary arrangements with B to conform with the provisions of these regulations. If individual C is employed by the R Corporation and the S Corporation and both corporations have knowledge of that fact, they must adjust their salary arrangements with C to conform with the provisions of these regulations.

Where an individual is employed by two or more employers who, under these regulations, are required to make salary arrangements in order to conform with the provisions of Subpart F, such individual and employers will be deemed to

be acting in contravention of the Act and these regulations if proper salary arrangements are not made. In any event, no employee may receive any salary in excess of that allowed under Subpart F. (See § 1002.30.)

§ 1002.24 *Limitation on 1942 salaries.* Unless payment thereof is required under a bona fide contract in effect on October 3, 1942, no amount of salary shall be paid or authorized to be paid to or accrued to the account of an employee or received by him after October 27, 1942 and before January 1, 1943, if the total salary paid, authorized, accrued or received for the calendar year 1942 exceeds the amount of salary which would otherwise be allowable under § 1002.18 (but not under §§ 1002.19 to 1002.22, inclusive) and also exceeds the total salary paid, authorized, accrued or received for the calendar year 1941. For purposes of this section, the term "bona fide contract" means a legally enforceable agreement, written or oral. Such an agreement may be evidenced by a bona fide resolution of a board of directors of a corporate employer passed on or before October 3, 1942. The amount allowable under § 1002.18 for 1942 (before reduction by any Federal income taxes) is \$54,428.57.

§ 1002.25 *Community property.* The limitations on salaries provided for in §§ 1002.18 to 1002.24, inclusive, shall in nowise be affected by any community property law. For example, an employee resident in the State of R receives a salary in 1943 of \$100,000. Under the laws of that State, \$50,000 of that salary is deemed to be the property of the employee's wife. For purposes of these regulations, the employee's salary is \$100,000, not \$50,000.

§ 1002.26 *Taxable year.* For purposes of Subparts F and G of these regulations, the term "taxable year" of an employee shall mean the calendar year during which the salary in question is paid or authorized to be paid to or accrued to the account of such employee or received by him. This rule is applicable regardless of whether the employer or employee, or both, file Federal income tax returns for a fiscal year or report income, for Federal income tax purposes, on an accrual basis or on the cash receipts and disbursements basis.

§ 1002.27 *Effective date.* The provisions of this subpart, except as provided in § 1002.24, shall be applicable to all salaries paid or accrued after December 31, 1942, irrespective of when payment or accrual of such salary was authorized and irrespective, also, of any contract or agreement made prior to or after such date.

SUBPART G—EFFECT OF UNLAWFUL PAYMENTS

§ 1002.28 *Amounts disregarded.* (a) Section 5 (a) of the Act provides in effect that the President shall prescribe the extent to which any salary payment made in contravention of regulations promulgated under the Act shall be disregarded by executive departments and other governmental agencies in determining the costs or expenses of any em-

ployer for the purposes of any other law or regulation. In any case where a salary payment is determined by the Commissioner to have been made in contravention of the Act, the entire amount of such payment is to be disregarded by all executive departments and all other agencies of the Federal Government for the purposes of:

(1) Determining costs or expenses of any employer for the purpose of any law or regulation, either heretofore or hereafter enacted or promulgated, including the Emergency Price Control Act of 1942, or any maximum price regulation thereof;

(2) Calculating deductions under the revenue laws of the United States; or

(3) Determining costs or expenses under any contract made by or on behalf of the United States.

A payment in contravention of the Act may be disregarded for more than one of the foregoing purposes.

(b) In the case of salaries decreased in contravention of the Act, the amount to be disregarded, as required by paragraph (a) of this section, is the amount of the salary actually paid or accrued by the employer at the reduced rate. Thus, if, for example, on November 1, 1942, a weekly salary rate of \$100 has been unjustifiably reduced to \$50 for the remainder of the calendar year 1942, the amount to be disregarded under paragraph (a) of this section is the total amount of salary paid at the weekly rate of \$50.

(c) In the case of salaries increased in contravention of the Act, the amount to be disregarded, as required by paragraph (a) of this section, is the amount of the salary actually paid or accrued by the employer at the increased rate and not merely an amount representing an increase in such salary. Thus, if, for example, on November 1, 1942, a weekly salary rate of \$100 is unjustifiably increased to \$150 for the remainder of 1942, then the amount of salary to be disregarded for purposes of paragraph (a) of this section is the total amount paid at the weekly rate of \$150. Also, if, for example, on February 1, 1943, a weekly salary rate of \$100 is increased to \$150 without prior required approval, but is restored to \$100 on June 1, 1943, after formal disapproval by the Commissioner or regional officer, then the amount of salary to be disregarded for purposes of paragraph (a) of this section is the total amount at the weekly rate of \$150. Neither in the cases described in this paragraph nor in the case described in paragraph (b) of this section are the total amounts paid at the weekly rate of \$100 to be disregarded for purposes of paragraph (a) of this section. (See § 1002.31 relating to salary allowances under section 23 (a) of the Code.)

(d) In the case of a salary in excess of the amount allowable under Subpart F of these regulations which is paid to, authorized to be paid to, or accrued to the account of an employee during his taxable year (as distinguished from the taxable year of the employer) in contravention of the Act, the amount to be disregarded is the full amount of such salary and not merely the amount repre-

senting the excess over the amount allowable under such Subpart F of these regulations. Thus, if, for example, under such Subpart F an employee would be entitled to receive a total salary during his taxable year of \$67,200 for services rendered in such year, but actually receives \$100,000 for such services, then the entire amount of \$100,000 is to be disregarded for purposes of paragraph (a) of this section.

§ 1002.29 *Criminal penalties.* Section 5 (a) of the Act provides in substance that no employer shall pay, and no employee shall receive, any salaries in contravention of the regulations promulgated by the President under the Act. Section 11 of the Act provides that any person, whether an employer or employee, who wilfully violates any provision of the Act or of any regulation promulgated thereunder, shall be subject, upon conviction, to a fine of not more than \$1,000, or to imprisonment for not more than one year, or to both such fine and imprisonment.

§ 1002.30 *Salary allowances under Code.* Under section 23 (a) of the Code reasonable allowances for salaries are allowed as deductions in computing net income. The tests which determine whether an allowance for salaries paid or accrued is reasonable within the meaning of section 23 (a) of the Code are in nowise suspended by any provision of these regulations. An employer may be exempt from the operation of these regulations yet be denied deductions for purposes of section 23 (a) of the Code with respect to the salaries paid or accrued by him. Also, a basic allowance under § 1002.18 and additional allowances under §§ 1002.19 to 1002.22, inclusive, may nevertheless be disallowed in whole or in part as deductions under section 23 (a) of the Code.

SUBPART H—EXEMPTIONS

§ 1002.31 *Exempt employers.* The provisions of these regulations, except those contained in Subparts F and G thereof, shall not apply in the case of an employer who employs eight or less individuals in a single business. An employer is subject to the provisions of these regulations if at the time a salary increase is to take effect he has in his employ more than eight individuals in a single business. It is not necessary that each employee be paid a salary provided all the individuals employed receive compensation for their personal services. If it is subsequently determined that the number of employees has been temporarily reduced by the employer, or that the employer has utilized any other improper device, for the sole purpose of claiming the exemption provided in the General Regulations and these regulations, then such exemption shall be deemed to have been improperly obtained and of no force or effect.

An employer may be exempt under this section notwithstanding that shortly after the effective date of a salary increase he enlarges his personnel in good faith to more than eight employees. Any further adjustment in salary will then be subject to the provisions of these regulations.

§ 1002.32 *Statutory salaries.* The provisions of these regulations are applicable in every respect to any salary paid by the United States, any State, Territory, or possession or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, except where the amount of such salary is fixed by statute. The term "statute" for purposes of this section does not include a municipal ordinance or resolution enacted by a governmental unit inferior to a State, Territory, or possession. Salaries covered by the Federal Classification Act of 1923, as amended, are excluded from the operation of these regulations. Likewise, salaries, for example, of public school teachers which are paid under salary schedules fixed by a state legislature and providing for mandatory increments are excluded from the operation of these regulations. (See § 1002.17.)

§ 1002.33 *Services in foreign countries.* The provisions of these regulations shall not be applicable in the case of any individual employer, resident in the United States or any Territory or possession thereof, or of a corporate employer organized under the laws of the United States or any State, Territory or possession, with respect to salaries paid by such employers to employees for services rendered exclusively in foreign countries.

§ 1002.34 *Foreign employers.* The provisions of these regulations shall not be applicable in the case of nonresident foreign employers except that if any salary is paid to an employee residing in the United States payment of such sal-

ary is subject to all the provisions of these regulations.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: December 2, 1942.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 42-12761; Filed, December 2, 1942;
11:40 a. m.]

TITLE 30—MINERAL RESOURCES

Chapter III—Bituminous Coal Division

[Docket No. A-1705]

PART 321—MINIMUM PRICE SCHEDULE DISTRICT NO. 1

ORDER GRANTING RELIEF, ETC.

Order granting temporary relief and conditionally providing for final relief in the matter of the petition of District Board No. 1 for the establishment of price classifications and minimum prices for the coals of certain mines in District No. 1 and for a change in shipping points.

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals of certain mines in District No. 1 and for a change in shipping points; and

It appearing that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with the Division in the above-entitled matter; and

The following action being deemed necessary in order to effectuate the purposes of the Act;

It is ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, § 321.7 (*Alphabetical list of code members*) is amended by adding thereto Supplement R-I and R-II, and § 321.24 (*General prices*) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof; and, commencing forthwith, the shipping points appearing in the aforesaid Supplement R-II for Mine Index Nos. 459, 460, 212, and 2010 shall be effective in place of the shipping points heretofore established for these mines.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this order, unless it shall otherwise be ordered.

Dated: November 12, 1942.

[SEAL]

DAN H. WHEELER,
Director.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 1

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 321, Minimum Price Schedule for District No. 1 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 321.7 Alphabetical list of code members—Supplement R-I

[Alphabetical listing of code members having railway loading facilities showing price classifications by size group numbers]

Mine Index No.	Code member	Mine name	Sub. Dist. No.	Seam	Shipping point	Railroad	Freight origin group No.	1	2	3	4	5
3815	Anderson, J. Bruce (Helen Jennings Coal Co.)	Jennings #5 (S)	34	B	Dunlo, Pa.	PRR	49	(†)	(†)	A	(†)	(†)
3816	Cymbria Valley Coal Co.	Cymbria #2	16	E	Barnesboro, Pa.	PRR	52	(†)	(†)	E	(†)	(†)
3817	Homestead Coal Co. (H. A. Bearer)	Homestead Coal Co. #2	16	D	St. Benedict, Pa.	NYC	44	(†)	(†)	E	(†)	(†)
3818	Hritz, George	George Hritz	33	B	Windsor, Pa.	PRR	49	(†)	(†)	A	(†)	(†)
3819	Industrial Coal Co., c/o James Jenkins	Pine Hill #2	43	Pittsburgh	Middleton Jet, Md.	C&P	66	(†)	(†)	D	(†)	(†)
3820	Industrial Coal Co., c/o James Jenkins	Pine Hill #3	43	Pittsburgh	Middleton, Md.	C&P	66	(†)	(†)	D	(†)	(†)
3821	Kerr, Frederick B., Receiver, Potts Run Coal Co.	Carnwath #1	13	D	Carnwath, Pa.	NYC	44	(†)	(†)	D	(†)	(†)
3822	Kerr, Frederick B., Receiver, Potts Run Coal Co.	Carnwath #2	13	D	Carnwath, Pa.	NYC	44	(†)	(†)	D	(†)	(†)
3823	Lantry Brothers	Lantry #2	24	D	St. Benedict, Pa.	NYC	44	(†)	(†)	E	(†)	(†)
3824	Little Ben Coal Co. (Derrin W. Walter)	Lilly Valley Coal Co.	27	E	Portage, Pa.	PRR	49	(†)	(†)	F	(†)	(†)
3825	McNitt Coal Co., The	Victory	43	Bluebaugh	Mt. Savage, Md.	C&P	66	(†)	(†)	F	(†)	(†)
3826	McNitt Coal Co., The	McNitt #3	43	Big Vein	Middleton Jet, Md.	PRR	66	(†)	(†)	D	(†)	(†)
3827	Nugent Mining Co. (M. H. Hartzfeld)	Nugent #2	18	D	Irvona, Pa.	NYC	50	(†)	(†)	F	(†)	(†)
3828	Pooler, W. H. & Andrew Doran	Wilkes	13	B	Boardman, Pa.	NYC	44	(†)	(†)	D	(†)	(†)
3829	Potomac Big Vein Georges Creek Coal Co., The	Potomac #4-6	43	Big Vein	Lonsconing, Md.	WM	67	(†)	(†)	(*)	(†)	(†)
3830	Potomac Big Vein Georges Creek Coal Co., The	Potomac B	43	Big Vein	Barton, Md.	C&P	66	(†)	(†)	D	(†)	(†)
3831	Preslovich, Andy	Knox Run #3	9	D	Gillintown, Pa.	NYC	44	(†)	(†)	D	(†)	(†)
3832	Walker, Ray S. (Bradford Coal Co.)	Aurora #5	8	C	Frenchville, Pa.	NYC	44	(†)	(†)	F	(†)	(†)
3833	Walker, Ray S. (Bradford Coal Co.)	Cooper Smokeless #3	8	B	Morrisdale, Pa.	NYC	44	(†)	(†)	F	(†)	(†)
3834	Wilks Brother's Stripping Co. (Thomas Wilks, Jr.)	Wilks Stripping (S)	14	D	Oscola Mills, Pa.	PRR	45	(†)	(†)	F	(†)	(†)
3835	Wolf, Levi	Levi Wolf	40	E	Rockwood, Pa.	B&O	100	(†)	(†)	H	(†)	(†)

*Indicates coal in this size group previously classified and priced.

†Indicates no classification effective for this size group.

§ 321.7 Alphabetical list of code members—Supplement R-II

[Alphabetical listing of code members having railway loading facilities, showing price classifications by size group numbers]

Mine Index No.	Code member	Mine name	Subdistrict No.	Seam	Shipping point	Railroad	Freight origin group No.	1	2	3	4	5
439	Morrisdale C&I Min- ing Co., The	Morrisdale Shaft #1	8	B	Hawk Run, Pa.	NYC	44	E	E	E	E	E
440	Morrisdale Coal Min- ing Co., The	Morrisdale Shaft #3	8	B	Hawk Run, Pa.	NYC	44	D	D	D	D	D
212	Morrisdale Coal Min- ing Co., The	Morrisdale #4	8	D	Hawk Run, Pa.	NYC	44	(†)	(†)	(†)	(†)	(†)
2010	Schwab, F. J. (Schwab Coal Co.)	Schwab	17	C	Patton, Pa.	NYC-PRR	60	(†)	(†)	(†)	(†)	(†)

†Indicates no classification effective for this size group.

NOTE: The above prices are applicable only via the respective Freight Origin Group, Shipping Point, and Railroad shown for the respective mines. Freight Origin Groups, Shipping Points, and Railroads previously assigned to these mines are no longer applicable.

FOR TRUCK SHIPMENTS

§ 321.24 General prices—Supplement T

[Prices in cents per net ton for shipment into all market areas]

Code member index	Mine Index No.	Mine	County	Seam	All lump coal double screened, top size 2" and over	Double screened, top size 2" and under	Run of mine, mod- ified R/M	2" and under slack	3/4" and under slack
Anderson, J. Bruce (Helen Jennings Coal Co.)	3815	Jennings #5 (S)	Cambridge	B	(†)	(†)	35.5	(†)	(†)
Jennings Coal Co.	3815	Jennings #5 (S)	Cambridge	B	(†)	(†)	35.5	(†)	(†)
Chamberlain Bros	3815	Chamberlain #3	Bedford	Twin Bed	(†)	(†)	240	(†)	(†)
Cymbria Valley Coal Co.	3815	Cymbria #2	Cambridge	E	270	245	(*)	235	225
Dutton, H. M.	3815	Dutton	Cambridge	B	(†)	(†)	240	(†)	(†)
Foltz, John	3815	Foltz #3	Jefferson	D	(†)	(†)	245	(†)	(†)

§ 321.24 General prices—Supplement T—Continued

Code member index	Mine index No.	Mine	Subdistrict No.	County	Seam	All lump coal double screened, top size 2" and over					Double screened, top size 2" and under					Run of mine, modified R/M					2" and under slack				
						1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5
Homestead Coal Co. (H. A. Bearer)	3816	Homestead Coal Co. #2	16	Cambria	D	(t)	(t)	245	(t)	(t)															
Industrial Coal Co., c/o James Jenkins	3817	Pine Hill #2	43	Allegheny	Pittsburgh	275	250	250	240	230															
Industrial Coal Co., c/o James Jenkins	3818	Pine Hill #3	43	Allegheny	Pittsburgh	(t)	(t)	250	(t)	(t)															
Kerr, Frederick B., Receiver, Potts Run Coal Company	3836	Carnwath #1	13	Clearfield	D	(t)	(t)	250	(t)	(t)															
Kerr, Frederick B., Receiver, Potts Run Coal Company	3837	Carnwath #2	13	Clearfield	D	(t)	(t)	250	(t)	(t)															
Lantzy Brothers	3819	Lantzy #2	24	Cambria	D	(t)	(t)	245	(t)	(t)															
Little Ben Coal Company, The	3820	Victory	43	Allegheny	Bluebaugh	(t)	(t)	245	(t)	(t)															
c/o W. L. Sherman	3821	McNitt #3	43	Allegheny	Big Vein	(t)	(t)	250	(t)	(t)															
McNitt Coal Company, The	3822	Nugent #2	18	Clearfield	D	(t)	(t)	240	230	220															
Nugent Mining Co. (M. H. Hartzfeld)	3752	Peters #2	9	Clearfield	B	(t)	(t)	235	(t)	(t)															
Peters, A. G. (Mrs.)	3751	Wilkes	13	Clearfield	B	(t)	(t)	250	(t)	(t)															
Pooler, W. H. & Andrew Doran (Andrew Doran)	397	Potomac #4-6	43	Allegheny	Big Vein	275	(t)	(*)	240	230															
Potomac Big Vein Georges Creek Coal Co., The	3282	Potomac B	43	Allegheny	Big Vein	275	(t)	(*)	240	230															
Potomac Big Vein Georges Creek Coal Co., The	3823	Knox Run #3	9	Centre	D	(t)	(t)	250	(t)	(t)															
Preslovich, Andy	1459	Gunstan	43	Allegheny	C'	(t)	(t)	(*)	235	(t)															
Stanton, M. L. (Gunstan Coal Co.)	3824	Aurora #5	8	Clearfield	C'	(t)	(t)	240	230	220															
Walker, Ray S. (Bradford Coal Co.)	3825	Cooper Smokeless #3	8	Clearfield	B	(t)	(t)	245	235	225															
Walker, Ray S. (Bradford Coal Co.)	3730	Wilks Stripping (S)	14	Clearfield	D	(t)	(t)	240	(t)	(t)															
Wilks Brother's Stripping Company (Thomas Wilks, Jr.)																									

† Indicates no classification effective for this size group.

* Indicates coal in this size group previously classified and priced.

[F. R. Doc. 42-12706; Filed, December 1, 1942; 11:51 a. m.]

[Docket No. A-1482]

PART 325—MINIMUM PRICE SCHEDULE, DISTRICT No. 5

ORDER CORRECTING AMENDMENT, ETC.

Order correcting amendment to final order in the matter of the petition of District Board No. 5 for revision of size group classifications for mines in District No. 5.

In Amendment R-VI attached to order of the Director dated September 22, 1942,¹ reducing the number of size group classifications established for coals produced in District No. 5, it is stated that the effective minimum prices for coals shipped into Market Area 21 shall be "the above prices plus 35 cents in all Size Groups."

It is apparent that an error has been made and the words "minus 35 cents" should have been used instead of "plus 35 cents."

Now, therefore, it is ordered, That effective September 22, 1942, § 325.6 (General prices) Amendment R-VI attached to the order of the Director dated September 22, 1942, 7 F.R. 7880, in Docket No. A-1482 be and it is hereby amended so as to read:

For shipment into Market Area No. 21. The effective minimum prices shall be the

¹ 7 F.R. 7884.

above prices minus 35 cents in all Size Groups.

Dated: December 1, 1942.

[SEAL] DAN H. WHEELER,
Director.

[F. R. Doc. 42-12752; Filed, December 2, 1942; 11:04 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VI—Selective Service System

[No. 150]

CLASSIFICATION ADVICE

ORDER PRESCRIBING FORM

By virtue of the Selective Training and Service Act of 1940 (54 Stat. 885) and the authority vested in me by the rules and regulations prescribed by the President thereunder and more particularly the provisions of § 605.51 of the Selective Service Regulations, I hereby prescribe the following change in DSS forms:

Revision of DSS Form 59, formerly entitled "Notice to Employer of Right to Appeal," and its reissuance under the title "Classification Advice," effective immediately upon the filing hereof with the Division of the Federal Register.¹ Upon receipt of the revised DSS Form 59, the use of the original DSS Form 59 will

¹ Filed as part of the original document.

be discontinued and all unused copies thereof will be destroyed.

The foregoing revision and discontinuance shall become a part of the Selective Service Regulations effective immediately upon the filing hereof with the Division of the Federal Register.

LEWIS B. HERSHEY,
Director.

NOVEMBER 13, 1942.

[F. R. Doc. 42-12725; Filed, December 1, 1942; 2:39 p. m.]

[No. 151]

DUPLICATE CLASSIFICATION REQUEST

ORDER PRESCRIBING FORM

By virtue of the Selective Training and Service Act of 1940 (54 Stat. 885) and the authority vested in me by the rules and regulations prescribed by the President thereunder, and more particularly the provisions of § 605.51 of the Selective Service Regulations, I hereby prescribe the following change in DSS forms:

Addition of a new form designated as DSS Form 61, entitled "Duplicate Classification Request," effective immediately upon the filing hereof with the Division of the Federal Register.¹

The foregoing addition shall become a part of the Selective Service Regulations, effective immediately upon the filing hereof with the Division of the Federal Register.

LEWIS B. HERSHEY,
Director.

NOVEMBER 16, 1942.

[F. R. Doc. 42-12726; Filed, December 1, 1942; 2:39 p. m.]

[No. 152]

NOTICE OF CLASSIFICATION

ORDER PRESCRIBING FORM

By virtue of the Selective Training and Service Act of 1940 (54 Stat. 885) and the authority vested in me by the rules and regulations prescribed by the President thereunder, and more particularly the provisions of § 605.51 of the Selective Service Regulations, I hereby prescribe the following change in DSS forms:

Revision of DSS Form 57, entitled "Notice of Classification," effective immediately upon the filing hereof with the Division of the Federal Register.¹ Upon receipt of the revised DSS Form 57, the use of the original DSS Form 57 will be discontinued and all unused copies thereof will be destroyed.

The foregoing revision and discontinuance shall become a part of the Selective Service Regulations, effective immediately upon the filing hereof with the Division of the Federal Register.

LEWIS B. HERSHEY,
Director.

NOVEMBER 16, 1942.

[F. R. Doc. 42-12744; Filed, December 2, 1942; 9:16 a. m.]

Chapter IX—War Production Board
Subchapter B—Director General for Operations

PART 1010—SUSPENSION ORDERS

[Suspension Order S-167]

UNITED VALVE CORP.

The United Valve Corporation is a corporation doing business at 1260 Winslow Road, Cleveland, Ohio, and is engaged in the manufacture of brass plumbing supplies, fixtures and hardware. As early as February, 1942, its principal officers were aware, or should have been aware, of the various restrictions contained in the orders and regulations of the War Production Board affecting its business.

During the period from January 1, 1942, to June 30, 1942, the Company generated by its operations in each calendar month more than 2,000 pounds of copper or copper base alloy scrap and failed to file Form PD-226 for any of said months with the War Production Board, as required by Supplementary Order M-9-b. The failure to file said forms constituted a wilful violation of Supplementary Order M-9-b.

During the month of May, 1942, the Company delivered more than 6,000 pounds of copper or copper base alloy scrap to the Cleveland Brass Works, Cleveland, Ohio, although said Cleveland Brass Works was not specifically authorized by the Director of Industry Operations to receive such scrap. The delivery of such scrap as aforesaid constituted a wilful violation of Supplementary Order M-9-b.

Subsequent to May 6, 1942, the Company used chromium as a finish on plumbing fixture fittings and plumbing fixture trim without having obtained specific authority from the Director of Industry Operations. This constituted a wilful violation of Limitation Order No. L-42.

These violations of Supplementary Order M-9-b and Limitation Order No. L-42 have impeded and hampered the war effort of the United States by diverting scarce materials to uses not authorized by the War Production Board. In view of the foregoing: *It is hereby ordered:*

§ 1010.167 Suspension Order S-167.

(a) Deliveries of material to The United Valve Corporation, its successors and assigns, shall not be accorded priority over deliveries under any other contract or order and no preference rating shall be assigned or applied to such deliveries by means of preference rating certificates, preference rating orders, general preference orders, or any other order or regulation of the Director of Industry Operations or the Director General for Operations, except as specifically authorized by the Director General for Operations.

(b) No allocation shall be made to The United Valve Corporation, its successors and assigns, of any material the supply or distribution of which is covered by any order to the Director of Industry Operations or the Director General for Operations, except as specifically authorized by the Director General for Operations.

(c) Nothing contained in this order shall be deemed to relieve The United

Valve Corporation, its successors and assigns, from any restrictions, prohibition, or provision contained in any other order or regulation of the Director of Industry Operations or the Director General for Operations, whether now in force or hereafter issued, except insofar as the same may be inconsistent with the provisions hereof.

(d) This order is to take effect December 4, 1942, and is to expire on June 4, 1943, at which time the restrictions contained in this order are to be of no further effect.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 1st day of December 1942.

ERNEST KANZLER,

Director General for Operations.

[F. R. Doc. 42-12734; Filed, December 1, 1942; 3:35 p. m.]

PART 1010—SUSPENSION ORDERS

[Suspension order S-168]

CLEVELAND BRASS WORKS

Cleveland Brass Works, a partnership composed of Anthony Arth, Lawrence Arth and Mrs. Helen Arth, is a brass foundry located at 1525 East 49th Street, Cleveland, Ohio. As early as February, 1942, one or more of the aforementioned partners was aware, or should have been aware, of the various restrictions contained in the orders and regulations of the War Production Board affecting its business.

During the period from February 6, 1942, to May 7, 1942, the Cleveland Brass Works delivered 2,707 pounds of brass castings to Smolensky Valve Company on orders upon which preference ratings of A-10 or better had not been legally extended in accordance with the orders and regulations of the War Production Board. Subsequent to May 7, 1942, Cleveland Brass Works delivered 17,340 pounds of brass castings to the United Valve Corporation and the Empire Brass Company on orders which did not bear a preference rating of A-1-k or better. The deliveries of brass castings mentioned in this paragraph constituted wilful violations of General Preference Orders No. M-9-a and No. M-9-a as amended.

During the period from March 1, 1942, to June 30, 1942, Cleveland Brass Works made deliveries of approximately 263,000 pounds of brass castings to the American Brass Manufacturing Company on orders which bore no preference ratings. This constituted a wilful violation of General Preference Order No. M-9-a.

Subsequent to March 31, 1942, Cleveland Brass Works accepted deliveries of approximately 67,524 pounds of copper or copper base alloy scrap from the American Brass Manufacturing Company and the United Valve Corporation, which deliveries had not been authorized by the Director of Industry Opera-

tions. This constituted a wilful violation of Supplementary Order M-9-b.

During the period from March 31, 1942, to June 30, 1942, Cleveland Brass Works melted copper and copper base alloy scrap without having first received authority to do so from the Director of Industry Operations. This constituted a wilful violation of Supplementary Order No. M-9-b.

During the period from March 31, 1942, to June 30, 1942, Cleveland Brass Works had an inventory of copper or copper base alloy scrap and failed to file Form PD-121-b with the War Production Board for any month during said period. This constituted wilful violations of Supplementary Order No. M-9-b.

These violations of Supplementary Orders No. M-9-a and No. M-9-b have impeded and hampered the war effort of the United States by diverting scarce materials to uses not authorized by the War Production Board. In view of the foregoing: *It is hereby ordered:*

§ 1010.168 Suspension Order S-168.

(a) Deliveries of material to the Cleveland Brass Works, its successors and assigns, shall not be accorded priority over deliveries under any other contract or order and no preference rating shall be assigned or applied to such deliveries by means of preference rating certificates, preference rating orders, general preference orders, or any other order or regulation of the Director of Industry Operations or the Director General for Operations, except as specifically authorized by the Director General for Operations.

(b) No allocation shall be made to the Cleveland Brass Works, its successors and assigns, of any material the supply or distribution of which is governed by any order of the Director of Industry Operations or the Director General for Operations, except as hereafter specifically authorized by the Director General for Operations.

(c) Nothing contained in this order shall be deemed to relieve the Cleveland Brass Works, its successors and assigns, from any restrictions, prohibitions, or provisions contained in any other order or regulation of the Director of Industry Operations or the Director General for Operations, whether now in force or hereafter issued, except insofar as the same may be inconsistent with the provisions hereof.

(d) This order is to take effect December 4, 1942, and is to expire on June 4, 1943, at which time the restrictions contained in this order are to be of no further effect.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 1st day of December 1942.

ERNEST KANZLER,

Director General for Operations.

[F. R. Doc. 42-12735; Filed, December 1, 1942; 3:35 p. m.]

PART 1010—SUSPENSION ORDERS

[Suspension Order S-169]

AMERICAN BRASS MANUFACTURING CO.

The American Brass Manufacturing Company is a corporation engaged in the manufacture of brass plumbing supplies, fixtures and hardware at 1525 East 49th Street, Cleveland, Ohio. As early as February, 1942, its principal officers were aware, or should have been aware, of the various restrictions contained in the orders and regulations of the War Production Board affecting its business.

During the period from January 1, 1942, to June 30, 1942, the Company made deliveries of copper or copper base alloy scrap to the Cleveland Brass Works, although said Cleveland Brass Works was not authorized by the Director of Industry Operations to receive such scrap. The delivery of such scrap as aforesaid constituted a wilful violation of Supplementary Order No. M-9-b.

During the period from January 1, 1942, to June 30, 1942, the Company generated by its operations in each calendar month of said period more than 2,000 pounds of copper or copper base alloy scrap and failed to file Form PD-226 with the War Production Board for each of said months. This constituted a wilful violation of Supplementary Order No. M-9-b.

Subsequent to May 6, 1942, the Company used chromium as a finish on plumbing fixture fittings and plumbing fixture trim without having specific authority from the Director of Industry Operations. This constituted a wilful violation of Limitation Order No. L-42.

During the period from April 1, 1942, to June 30, 1942, the Company used, out of inventory, materials on the critical materials list attached to Priorities Regulation No. 11, of a value in excess of \$5,000. Although, under these circumstances, it was required to file a PRP application with the War Production Board on Form PD-25-a not later than June 30, 1942, it failed to do so. This constituted a wilful violation of Priorities Regulation No. 11.

These violations of Supplementary Order No. M-9-b, Limitation Order No. L-42, and Priorities Regulation No. 11 have impeded and hampered the war effort of the United States by diverting scarce materials to uses not authorized by the War Production Board. In view of the foregoing: *It is hereby ordered:*

§ 1010.169 Suspension Order S-169.

(a) Deliveries of material to the American Brass Manufacturing Company, its successors and assigns, shall not be accorded priority over deliveries under any other contract or order and no preference rating shall be assigned or applied to such deliveries by means of preference rating certificates, preference rating orders, general preference orders, or any other order or regulation of the Director of Industry Operations or the Director General for Operations, except as specifically authorized by the Director General for Operations.

(b) No allocation shall be made to the American Brass Manufacturing Com-

pany, its successors and assigns, of any material the supply or distribution of which is governed by any order of the Director of Industry Operations or the Director General for Operations, except as hereafter specifically authorized by the Director General for Operations.

(c) Nothing contained in this order shall be deemed to relieve the American Brass Manufacturing Company, its successors and assigns, from any restrictions, prohibition, or provision contained in any other order or regulation of the Director of Industry Operations or the Director General for Operations, whether now in force or hereafter issued, except insofar as the same may be inconsistent with the provisions hereof.

(d) This order is to take effect December 4, 1942, and is to expire on June 4, 1943, at which time the restrictions contained in this order are to be of no further effect.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 1st day of December 1942.

ERNEST KANZLER,

Director General for Operations.

[F. R. Doc. 42-12736; Filed, December 1, 1942; 3:35 p. m.]

PART 1010—SUSPENSION ORDERS

[Suspension Order S-170]

EMPIRE BRASS CO.

The Empire Brass Company is a corporation operating a brass foundry and brass mill located at 10301 Berea Road, Cleveland, Ohio, engaged in the manufacture of plumbing supplies, fixtures and hardware. As early as February, 1942, its principal officers were aware, or should have been aware, of the various restrictions contained in the orders and regulations of the War Production Board affecting its business.

During the period from February 6, 1942 to May 31, 1942, the Company delivered substantial quantities of brass castings to the American Brass Manufacturing Company and the United Valve Corporation on orders which bore no preference ratings. This constituted a wilful violation of General Preference Order No. M-9-a.

During the period from January 1, 1942, to June 30, 1942, the Empire Brass Company transferred a substantial quantity of copper or copper base alloy scrap from its machine shop to its foundry without specific authorization from the War Production Board. This constituted a wilful violation of Supplementary Order No. M-9-b.

During the period from January 1, 1942, to June 30, 1942, the Empire Brass Company generated by its operations during each calendar month in said period more than 2,000 pounds of copper or copper base alloy scrap, and failed to file Form PD-226 with the War Pro-

duction Board for each month, except for the month of February, 1942. This constituted a wilful violation of Supplementary Order No. M-9-b.

During the period from March 31, 1942 to June 30, 1942, the Empire Brass Company melted copper or copper base alloy scrap without specific authority from the War Production Board. This constituted a wilful violation of Supplementary Order No. M-9-b.

During the months of May and June, 1942, the Empire Brass Company had an inventory of copper or copper base alloy scrap and failed to file Form PD-121-b with the War Production Board. This constituted a wilful violation of Supplementary Order No. M-9-b.

Subsequent to May 6, 1942, the Empire Brass Company used chromium as a finish on plumbing fixture fittings and plumbing fixture trim. This constituted a wilful violation of Limitation Order No. L-42.

These violations of General Preference Order No. M-9-a, Supplementary Order No. M-9-b and Limitation Order No. L-42 have impeded and hampered the war effort of the United States by diverting scarce materials to uses not authorized by the War Production Board. In view of the foregoing: *It is hereby ordered:*

§ 1010.170 Suspension Order S-170.

(a) Deliveries of material to The Empire Brass Company, its successors and assigns, shall not be accorded priority over deliveries under any other contract or order and no preference rating shall be assigned or applied to such deliveries by means of preference rating certificates, preference rating orders, general preference orders, or any other order or regulation of the Director of Industry Operations or the Director General for Operations, except as hereafter specifically authorized by the Director General for Operations.

(b) No allocation shall be made to The Empire Brass Company, its successors and assigns, of any materials the supply or distribution of which is governed by any order of the Director of Industry Operations or the Director General for Operations, except as hereafter specifically authorized by the Director General for Operations.

(c) Nothing contained in this order shall be deemed to relieve The Empire Brass Company, its successors and assigns, from any restrictions, prohibition, or provision contained in any other order or regulation of the Director of Industry Operations or the Director General for Operations, whether now in force or hereafter issued, except insofar as the same may be inconsistent with the provisions hereof.

(d) This order is to take effect December 4, 1942, and is to expire on June 4, 1943, at which time the restrictions contained in this order are to be of no further effect.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th

Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 1st day of December 1942.

ERNEST KANZLER,
Director General for Operations.

[F. R. Doc. 42-12737; Filed, December 1, 1942;
3:35 p. m.]

PART 1141—MOTOR FUEL

[Limitation Order L-70, as Amended Dec. 1, 1942]

Section 1141.1 (Limitation Order L-70) is hereby amended to read as follows:

(a) *Applicability of priorities regulations.* This order and all transactions affected thereby are subject to the provisions of any applicable priorities regulation issued by the War Production Board, as amended from time to time.

(b) *Definitions.* (1) "Person" means any individual, partnership, association, business trust, corporation, governmental corporation or agency, or any organized group of persons, whether incorporated or not.

(2) "Motor fuel" means liquid fuel, except Diesel fuel, used for the propulsion of motor vehicles or motor boats and shall include any liquid fuel to which Federal gasoline taxes apply except liquid fuel used for the propulsion of aircraft.

(3) "Supplier" means any person, other than a service station, who delivers motor fuel, directly or indirectly, for redelivery or for consumption.

(c) *Limitation on shipment of motor fuel from certain areas.* (1) No supplier shall deliver or cause to be delivered, directly or indirectly, and no person shall accept delivery of any motor fuel from any point within the States of Oregon or Washington to any point in the United States outside such States: *Provided*, That this paragraph shall not apply to:

(i) The delivery outside the States of Oregon or Washington of any motor fuel manufactured wholly from crude oil or natural gas produced within the States of Colorado, Idaho, Montana, Utah, or Wyoming.

(ii) Deliveries from bulk plants within the States of Oregon or Washington to such points outside such States as were actually served by such bulk plants by tank truck during the period December 1, 1941–February 28, 1942, inclusive.

(2) Effective December 15, 1942, no supplier shall deliver or cause to be delivered, directly or indirectly, and no person shall accept delivery of any motor fuel from any point within the States of Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, or West Virginia, or the District of Columbia, to any point in the United States outside such States: *Provided*, That this paragraph shall not apply to deliveries from bulk plants within such States to such points outside such States as were actually served by such bulk plants by tank truck during the period December 1, 1941–February 28, 1942, inclusive.

(d) *Appeals.* Any person affected by this order who considers that compliance therewith would work an exceptional and unreasonable hardship upon him may file an appeal setting forth the pertinent facts and reasons why he considers himself entitled to relief. All appeals shall be filed in quadruplicate.

(e) *Appeals and correspondence.* All appeals filed hereunder and all communications concerning this order shall, unless otherwise directed, be addressed to the District Director of Marketing, Office of Petroleum Coordinator for War at:

(1) 855 Subway Terminal Building, Los Angeles, California, if the motor fuel is to be used in the States of Oregon or Washington or states adjacent thereto.

(2) 122 East 42nd Street, New York, New York, if the motor fuel is to be used in the States of Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, or West Virginia, or the District of Columbia or states adjacent thereto.

(f) *Violations or false statements.* Any person who wilfully violates any provision of this order or who wilfully furnishes false information to any Department or Agency of the United States in connection with this order is guilty of a crime and upon conviction, may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using material under priority control and may be deprived of priorities assistance by the Director General for Operations.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 1st day of December 1942.

ERNEST KANZLER,
Director General for Operations.

[F. R. Doc. 42-12743; Filed, December 1, 1942;
5:12 p. m.]

PART 1028—DOMESTIC COOKING APPLIANCES

[Limitation Order L-23-c as Amended Dec. 2, 1942]

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of critical materials for defense, for private account, and for export, which are used in the production of domestic cooking appliances and domestic heating stoves; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1028.4 *Supplementary General Limitation Order L-23-c—(a) Definitions.* For the purposes of this order:

(1) "Domestic cooking appliances" means gas ranges, cooking stoves, and hot plates for household use; coal and wood ranges and cooking stoves (including

laundry stoves) for household use; kerosene, fuel oil, and gasoline ranges, cooking stoves, table stoves, and hot plates for household use; combination ranges (including kitchen heater and bungalow types), except electric, for household use; camp and trailer stoves for cooking purposes; and fuel oil conversion range burners.

(2) "Domestic heating stoves" means any above the floor device (except electric) for the direct heating of the space in and adjacent to that in which the device is located, designed for use without heat distribution pipes or ducts as integral parts of such heating devices.

(3) "Iron and steel used" means the aggregate weight of iron and steel contained in the finished products manufactured.

(4) "Factory sales value" means the aggregate value of shipments of domestic cooking appliances and domestic heating stoves.

(5) "Class A manufacturers" means those manufacturers of domestic cooking appliances and/or domestic heating stoves whose factory sales value for the twelve months ending June 30, 1941, including both domestic sales and exports, was \$2,000,000 or more.

(6) "Class B manufacturers" means those manufacturers of domestic cooking appliances and/or domestic heating stoves whose factory sales value for the twelve months ending June 30, 1941, including both domestic sales and exports, was less than \$2,000,000 and who are located in labor shortage areas.

(7) "Class C manufacturers" means those manufacturers of domestic cooking appliances and/or domestic heating stoves whose factory sales value for the twelve months ending June 30, 1941, including both domestic sales and exports, was less than \$2,000,000 and who are not located in labor shortage areas.

(8) "Accessories" for domestic cooking appliances means closets, shelves, aprons, clocks, cast broiler pans, thermometers, or any other instruments, attachments, or appurtenances (except thermostats, reservoirs, water backs and portable ovens), not essential to any of the following three major cooking operations: top-burner cooking, oven baking and oven broiling.

[Preceding subparagraph in small type to be superseded by following subparagraph December 26, 1942]

(8) "Accessories" for domestic cooking appliances means thermostats, closets, shelves, aprons, clocks, cast broiler pans, thermometers or any other instruments, attachments, or appurtenances (except reservoirs, water backs and portable ovens) not essential to any of the following three major cooking operations: top-burner cooking, oven baking and oven broiling. This paragraph (a) (8) shall become effective on the 26th day of December 1942.

(9) "Permitted type gas range" means any domestic cooking appliance using gas as fuel, and which has not more than four top-burners, one baking oven and one broiler, no storage space or accessories, and which has a total weight of metal not exceeding 100 pounds.

(10) "Permitted type gas hot plate" means any domestic cooking appliance using gas as fuel, and which has not more than three burners, and which has a total weight of metal not exceeding 15 pounds.

(11) "Permitted type coal or wood range" means any domestic cooking appliance equipped to burn either coal or wood, which has one baking oven, and which has no storage space, warming closet, or accessories.

(12) "Permitted type combination range" means any domestic cooking appliance equipped to burn gas and coal or wood, and which has one baking oven and one broiler, no storage space or accessories, and which has a total weight of metal not exceeding 350 pounds.

(13) "Permitted type kerosene and/or gasoline range" means any domestic cooking appliance equipped to burn either kerosene or gasoline, and which has not more than three top-burners, one baking oven, no storage space or accessories, and which has a total weight of metal not exceeding 90 pounds.

(14) "Permitted type kerosene and/or gasoline stove" means any domestic cooking appliance equipped to burn either kerosene or gasoline, and which has no storage space or accessories, not more than three burners, and which has a total weight of metal not exceeding 45 pounds.

(15) "Permitted type kerosene and/or gasoline table stove" means any domestic cooking appliance equipped to burn either kerosene or gasoline, and which has not more than three burners, and which has a total weight of metal not exceeding 18 pounds.

(16) "Permitted type portable oven" means a portable oven which has no accessories and which has a total weight of metal not exceeding 17 pounds.

(17) "Permitted type domestic cooking appliances" means only those domestic cooking appliances defined in paragraphs (a) (9) to (a) (16), both inclusive.

(18) "Labor shortage area" means any one of the following localities:

Alabama: Huntsville.
California: Beverly Hills, Culver City, Huntington Park, Irvington, Los Angeles, Monrovia, North Hollywood, Oakland, Petaluma, San Francisco, San Rafael, Stockton.
Connecticut: Hartford, New Britain.
Indiana: Indianapolis, South Bend.
Kansas: Wichita.
Maine: Portland.
Maryland: Baltimore, Perryville.
Michigan: Milan.
New Hampshire: Salmon Falls.
New Jersey: Cranford, Newark, West Berlin.
New York: North Tonawanda.
Ohio: Akron, Cleveland, Massillon.
Oregon: Portland.
Pennsylvania: Erie, Lansdale, Middletown, Philadelphia, Pottstown, Royersford.
Washington: Everett, Seattle.

(19) "Base period" means the twelve months' period, July 1, 1940, to June 30, 1941.

(b) *General restrictions.* (1) After July 31, 1942, no person shall manufacture any domestic cooking appliances except permitted type domestic cooking appliances.

(2) After July 31, 1942, no Class A manufacturer and no Class B manufacturer shall manufacture any domestic cooking appliances or any domestic heating stoves.

(3) During the period from January 1, 1942, to and including July 31, 1942, no Class A manufacturer and no Class B manufacturer shall use in the production of domestic cooking appliances more iron and steel than six times the average monthly amount used by him in the base period.

(4) During the period from May 15, 1942 to July 31, 1942, no Class A manufacturer and no Class B manufacturer shall use in the production of domestic heating stoves more iron and steel than three times the average monthly amount used by him in the base period.

(5) From and after June 30, 1942, no Class C manufacturer shall use in any calendar quarter in the production of domestic cooking appliances iron and steel in excess of three times 70% of the monthly average of iron and steel used by him in the manufacture of domestic cooking appliances during the base period.

(6) From and after December 31, 1942, no Class C manufacturer shall use in any calendar quarter in the production of domestic heating stoves iron and steel in excess of three times 50% of the monthly average of iron and steel used by him in the manufacture of domestic heating stoves during the base period.

(7) After July 31, 1942, the average weight of iron and steel used per unit by any manufacturer in domestic heating stoves shall not exceed 70% of the average weight of iron and steel used per unit by such manufacturer in the production of domestic heating stoves during the base period.

(8) After July 31, 1942, the average weight of iron and steel used per unit by any manufacturer in permitted type coal or wood ranges shall not exceed 70% of the average weight of iron and steel used per unit by such manufacturer in the production of coal and/or wood burning domestic cooking appliances during the base period.

(9) After July 31, 1942, no manufacturer of domestic cooking appliances shall produce more than one model of permitted type gas ranges.

(10) [Revoked]

(11) No manufacturer of domestic cooking appliances shall:

(i) Use any iron or steel in the production of cover tops or lids to cover the cooking surfaces of domestic cooking appliances when not in use, or

(ii) Produce or assemble any domestic cooking appliances equipped with such cover tops or lids containing any iron or steel.

(12) Until January 1, 1943, no Class C manufacturer, who in the base period produced any combination ranges or domestic cooking appliances using coal or wood as fuel and any domestic heating stoves using coal or wood as fuel, may produce any permitted type combination

range or any permitted type coal or wood range except for delivery to or the account of the Federal Public Housing Authority. Nothing in this subparagraph, however, shall restrict the manufacture of any permitted type combination range or any permitted type coal or wood range all of the parts for which on the 9th day of November, 1942 were completed or in the process of manufacture.

(13) From October 1, 1942 through December 31, 1942, no Class C manufacturer shall use in the production of domestic heating stoves using coal or wood as fuel any iron or steel in excess of three times 50% of the monthly average of iron and steel used by him in the manufacture of domestic heating stoves during the base period plus three times 70% of the monthly average of iron and steel used by him in the manufacture of domestic cooking appliances during the base period.

(c) *Replacement parts.* Nothing in this order shall be construed to prohibit or limit the production, by any manufacturer, of replacement parts for domestic cooking appliances or domestic heating stoves.

(d) *No interference with production of war materials.* No manufacturer shall divert materials, labor, or equipment from the production of war materials to enable him to use in the production of domestic cooking appliances and domestic heating stoves the quantities of iron and steel permitted under paragraphs (b) (3) and (b) (4).

(e) *Equipment for the armed forces and the Maritime Commission.* None of the restrictions or limitations in this order shall apply to domestic cooking appliances or domestic heating stoves manufactured after July 31, 1942, by Class C manufacturers to specifications of the Army, the Navy or the Maritime Commission of the United States.

(f) *Applicability of the order.* Insofar as any other order issued, or to be issued hereafter, limits the use of any material in the production of domestic cooking appliances or domestic heating stoves to a greater extent than the limits imposed by this order, the restrictions in such other order shall govern unless otherwise specified therein.

(g) *Records.* All persons affected by this order shall keep and preserve for not less than two years accurate and complete records concerning inventories, production and sales.

(h) *Audit and inspection.* All records required to be kept by this order shall, upon request, be submitted to audit and inspection by duly authorized representatives of the War Production Board.

(i) *Reports.* Each manufacturer to whom this order applies shall file with the War Production Board such reports and questionnaires as said Board shall from time to time specify.

(j) *Provision for companies under common ownership.* For the purposes of this order, a manufacturer's classification into Class "A" or Class "B" or "C" shall depend upon the total factory

sales value of that manufacturer, including in the total of such factory sales value the factory sales value of all subsidiaries, affiliates, or other companies or enterprises under common ownership or control.

(k) *Violations.* Any person who willfully violates any provision of this order, or who, in connection with this order, willfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(l) *Appeals.* Any manufacturer affected by this order, who considers that compliance therewith would work an exceptional and unreasonable hardship upon him, or that it would result in a serious problem of unemployment in his community, or that compliance with this order would disrupt or impair a program of conversion from nondefense to defense work, may apply for relief by addressing a letter directed to the Director General for Operations, Social Security Building, Washington, D. C., setting forth the pertinent facts and the reasons why such person considers that he is entitled to relief. The Director General for Operations may thereupon take such action as he deems appropriate.

(m) *Applicability of Priorities Regulation No. 1.* This order and all transactions affected thereby are subject to the provisions of Priorities Regulation No. 1 (Part 944), as amended from time to time, except to the extent that any provisions hereof may be inconsistent therewith, in which case the provisions of this order shall govern.

(n) *Communications.* All communications concerning this order shall be addressed to War Production Board, Washington, D. C., Ref.: L-23-c.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Laws 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 2d day of December 1942.

ERNEST KANZLER,

Director General for Operations.

[F. R. Doc. 42-12748; Filed, December 2, 1942; 10:48 a. m.]

PART 1109—MICA

[Conservation Order M-101 as Amended Dec. 2, 1942]

Section 1109.1 *Conservation Order M-101* is hereby amended so as to read as follows:

§ 1109.1 *Conservation Order M-101—(a) Definitions.* (1) The term "strategic mica" means:

(i) Muscovite block mica in the rifted condition (partially or fully trimmed) usually sold by the miner or rifting shop,

that is of a quality better than black or red stained, whether or not cut, stamped, split or punched to predetermined shape or dimensions, excluding scrap, or

(ii) Phlogopite (amber) block mica in the rifted condition (partially or fully trimmed) usually sold by the miner or rifting shop, that is of a quality which does not expand over 50 percent and will not calcine at 1500° F., whether or not cut, stamped, split or punched to predetermined shape or dimensions, excluding scrap, or

(iii) Phlogopite (amber) bookform splittings in grades (sizes) larger than No. 5, but not including any other form of mica splittings, either amber or muscovite, of the types used for making built-up mica products.

(2) The term "scrap" means that part of strategic mica remaining after a piece or pieces have been cut, stamped or punched therefrom if such remnant is of a grade (size) too small to permit the cutting of two pieces $\frac{1}{2}$ " x $\frac{1}{2}$ ", as well as mine waste if no commercial grade (size) larger than No. 7 can be trimmed therefrom.

(3) The term "to fabricate or cause another to fabricate" means to punch or to change in any manner the form, shape or size of strategic mica or to cause another to punch or change in any manner the form, shape or size of strategic mica, unless such fabricating is for the purpose of making emergency repairs or emergency replacements to prevent a threatened breakdown when such repair or replacement is made on the premises of the owner of the article being repaired.

(4) The term "product containing strategic mica" means a part into which completely fabricated strategic mica is assembled, installed or inserted, such as a spark plug, condenser, or radio tube.

(5) The term "end-product" means the finished article in the form ready for delivery to the ultimate consumer, such as a tank or radio receiving set.

(6) The term "person" means any individual, partnership, association, business trust, corporation, governmental corporation or agency, or any organized group of persons whether incorporated or not.

(b) *Restrictions on fabrication and causing of fabrication of strategic mica.*

(1) On and after the effective date of this amended order, no person shall fabricate or cause another to fabricate any strategic mica for any purpose unless each person fabricating or causing another to fabricate the strategic mica has been specifically authorized by the Director General for Operations to do so in the particular manner in which it is being done pursuant to an application made under the provisions of paragraph (b) (4) of this amended order.

(2) On and after the effective date of this amended order, no manufacturer of a product containing strategic mica shall at any time or for any purpose:

(i) Fabricate or cause another to fabricate strategic mica of a quality better than is necessary for the particular purpose to which the strategic mica will be put; or

(ii) Fabricate or cause another to fabricate strategic mica for use where the substitution of non-strategic mica or other material is practicable.

(3) On and after the effective date of this amended order, no fabricator shall at any time or for any purpose fabricate strategic mica of a grade (size) larger than is required to yield the particular pattern desired. Whenever a piece or pieces of required dimensions are cut or stamped from strategic mica with a resultant remnant large enough so that two pieces $\frac{1}{2}$ " x $\frac{1}{2}$ " can be cut therefrom, such remnant shall be deemed and treated hereunder as strategic mica of the same quality as the original mica from which the piece or pieces are cut.

(4) Application to the Director General for Operations for specific authorization to fabricate or cause another to fabricate strategic mica shall be made by the manufacturer of the product containing strategic mica and by the person, if any, fabricating strategic mica for such manufacturer, on Form PD-480 Revised, or otherwise; and the authorization, if secured, shall apply to such manufacturer and to the person, if any, fabricating strategic mica for such manufacturer pursuant to the terms of the authorization.

(5) The Director General for Operations may at any time, either before or after authorization is granted, require satisfactory evidence from the manufacturer of any end-product into which the product containing strategic mica is to be assembled, installed or inserted, or from the manufacturer of the product containing strategic mica, that a lesser quantity or a lower quality of strategic mica could not be or could not have been used than the quantity or quality applied for, or that non-strategic mica or other materials could not be or could not have been used as a substitute for strategic mica.

(c) *Restrictions on delivery of unfabricated domestic strategic mica.* After the effective date of this amended order, no person (other than Colonial Mica Corporation, as agent of Metals Reserve Company) shall deliver any strategic mica mined in the United States which has not been cut, stamped, split or punched to predetermined shape or dimensions to any person (other than Colonial Mica Corporation, as agent of Metals Reserve Company), unless specifically authorized to do so by the Director General for Operations. Application for such an authorization shall be made by letter, which need only state the amount and grade (size) of the strategic mica which the applicant seeks permission to acquire and the name of the mine from which it is to be or has been mined. Authorization to deliver such strategic mica must be obtained not only when delivery is made by one person to another person, including an affiliate or subsidiary, but also when delivery is made from one branch, division or section of a single person to another branch, division or section of the same or any other person under common ownership or control, such as from a rifting shop or department to a fabricating shop or department owned by the same person.

(d) *Reports.* Every person fabricating strategic mica shall make a report on Form PD-325 Revised, covering any fabricating of strategic mica done by him in each month in which fabrication of such mica takes place, and every such person and every other person having in his possession strategic mica which has not been cut, stamped, split or punched to predetermined shape or dimensions shall, as of the end of each month beginning with November, 1942, make a report on Form PD-325 Revised, covering his inventory position with respect to such unfabricated strategic mica at the end of each such month. Such reports shall be filed with the War Production Board within fifteen days of the end of the month as of which the report is made. No report need be filed for a given month if the total quantity of strategic mica fabricated during the month is less than 10 pounds, unless the inventory position of the person fabricating less than 10 pounds of strategic mica or of a person not fabricating any strategic mica at all, contains more than 100 pounds of strategic mica which has not been cut, stamped, split or punched to predetermined shape or dimensions or such unfabricated strategic mica of a value in excess of \$100.00.

(e) *Miscellaneous provisions.*—(1) *Appeals.* Any appeal from the provisions of paragraphs (b) (2) and (3) of this amended order shall be made by filing a letter in triplicate, referring to the particular provision appealed from and stating fully the grounds of the appeal.

(2) *Applicability of priorities regulations.* This order and all transactions affected thereby are subject to all applicable provisions of priorities regulations of the War Production Board, as amended from time to time.

(3) *Applicability of order.* The prohibitions and restrictions contained in this order shall apply to fabricating or causing another to fabricate strategic mica after the effective date of this amended order irrespective of whether such articles are manufactured pursuant to a contract made prior or subsequent to such effective date. Insofar as any other order of the Director of Priorities, the Director of Industry Operations, or of the Director General for Operations may have the effect of limiting or curtailing to a greater extent than herein provided fabricating or causing another to fabricate strategic mica, the limitations of such other order shall be observed.

(4) *Communications to War Production Board.* All reports required to be filed hereunder, and all appeals and other communications concerning this order, shall, unless otherwise directed, be addressed to: War Production Board, Mica-Graphite Division, Washington, D. C., Reference: M-101.

(5) *Violations.* Any person who willfully violates any provision of this order, or who, in connection with this order, willfully conceals a material fact or furnishes false information to any department or agency of the United States, is guilty of a crime, and upon conviction, may be punished by fine or imprisonment. In addition, any such person may

be prohibited from making or obtaining further deliveries of or from processing or using material under priority control and may be deprived of priorities assistance.

(6) *Effective date.* This amended order shall take effect December 10, 1942.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 2d day of December 1942.

ERNEST KANZLER,

Director General for Operations.

[F. R. Doc. 42-12750; Filed, December 2, 1942; 10:49 a. m.]

PART 3122—ELECTRICAL MOTORS AND GENERATORS

[General Conservation Order L-221]

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of certain critical materials and facilities used in the manufacture of electric motors for defense, for private account, and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 3122.1 *General Conservation Order L-221*—(a) *Definitions.* For the purpose of this order:

(1) "Person" means any individual, partnership, association, business trust, corporation, governmental corporation or agency, or any organized group of persons, whether incorporated or not.

(2) "Motor" means any new rotating equipment or device used to transform electric energy into mechanical energy, and having a rating of one horsepower or more; except motors used in the operation of passenger automobiles, trucks, truck trailers, passenger carriers and off-the-highway motor vehicles, as defined in Order L-158, or in the operation of stationary automotive type engines.

(3) "Generator" means any new rotating equipment or device used to transform mechanical energy into electric energy, and having a rating of not less than $\frac{3}{4}$ KW and not more than 6000 KW; except generators used in the operation of passenger automobiles, trucks, truck trailers, passenger carriers and off-the-highway motor vehicles, as defined in Order L-158, or in the operation of stationary automotive type engines.

(4) "Manufacture" means the fabrication or assembly of motors or generators.

(5) "Manufacturer" means any enterprise to the extent that it is engaged in the business of manufacturing motors or generators.

(6) "Dealer" means any enterprise to the extent that it acquires motors or generators for resale.

(7) "Used motor or generator" includes reconstructed and rebuilt motors or generators.

(8) "Delivery" includes delivery of a motor or generator from one affiliate to another or from one branch, division or section of a single enterprise to another branch, division or section of the same

enterprise where the recipient affiliate, branch, division or section will use the motor or generator or incorporate it into other machinery.

(9) "Order" means any commitment or other arrangement for the delivery of a new motor or generator whether by purchase, lease, rental or otherwise.

(10) "Army, Navy, Maritime Commission or War Shipping Administration" does not include any privately operated plant or shipyard financed by, or controlled by any of those organizations, or operated on a cost-plus-fixed-fee basis.

(b) *Restrictions on acceptance and delivery of orders.* (1) Except as otherwise provided in this paragraph, on and after December 10, 1942, no manufacturer or dealer shall accept any order for, or deliver, any motor or generator, and no person shall accept delivery thereof from a manufacturer or dealer unless:

(i) The purchaser shall have no idle motor or generator in his possession which is adaptable to the purpose for which the new motor or generator is sought to be purchased;

(ii) The purchaser shall have attempted to obtain, from at least three dealers, a used motor or generator for the purpose for which the new motor or generator is sought to be purchased: *Provided, however,* That the provisions of this subparagraph shall not apply to any order for 10 or more new motors of an identical kind and rating by a purchaser who fabricates or assembles machinery or equipment into which such motors will be incorporated;

(iii) The motor or generator is not purchased for replacement of existing equipment; and

(iv) The motor or generator is required for installation within the shortest practicable time after delivery and is not for standby purposes. As applied to a person who purchases motors or generators for incorporation into other machinery manufactured by him, "installation" as used above refers only to such incorporation and not to the use of the other machinery. For the purpose of this subparagraph, a motor or generator shall be deemed installed (and not standby) equipment when it is connected to the purchaser's load and electrical system, notwithstanding that the purpose of such equipment may be emergency relief service.

(2) The provisions of paragraph (b) (1) shall not apply to (i) any order for motors or generators for the use of the Army, Navy, Maritime Commission or War Shipping Administration, or for incorporation into any machinery or equipment to be used by said agencies, or (ii) any order for special motors, by a person who fabricates or assembles machinery or equipment into which such special motors are to be incorporated: *Provided,* That, as of the date of this order, such special motors were required by the function and design of such machinery or equipment. As used in this subparagraph, the term "special motor" means any motor other than a general purpose, horizontal, continuous duty, open type 40° C. rise motor.

(c) *Restrictions on types of motors.* Except as otherwise specifically provided

herein or authorized by the Director General for Operations, on and after December 10, 1942 no manufacturer or dealer shall accept any order for any motor; and on and after February 1, 1943 no manufacturer or dealer shall deliver, and no person shall accept delivery from a manufacturer or dealer, of any motor; unless the motor is in compliance with the following standards and is otherwise of the simplest practicable mechanical and electrical design:

(1) *Mechanical and electrical design.* The following minimum standards shall be applied with respect to electrical and mechanical design:

(i) No motor shall have a temperature rise less than 40° C, for open type; 50° C, for splash-proof type; and 55° C for totally enclosed type motors: *Provided, however,* That the temperature rise of the motor may vary from the above standards to the extent that the manufacturer has heretofore provided tolerance therefrom in his design and manufacture of the same or a similar type motor rated 40° C, 50° C, or 55° C, as the case may be.

(ii) No motor shall include a special enclosure to make it other than open type; except that (a) a motor may be explosion proof type if it is to be used in a Class I hazardous location, as defined in Paragraph 5005, Article 500, Chapter 5 of the National Electrical Code approved by the American Standards Association August 7, 1940; (b) a motor may be totally enclosed if it is to be used in a Class II hazardous location, as defined in Paragraph 5006, Article 500, Chapter 5 of the above Code, or if it is to be used generally in an atmosphere which is corrosive or which contains such quantities of material particles, dust or fumes as to be destructive of an open type motor; (c) a motor may be splash-proof type in any case where the motor is to be permanently installed outdoors without other protection or where the motor will be subjected to continually falling material particles, or to drops of splashing or jet propelled liquids falling at regular intervals of not less than once a day; and that (d) the provisions of this paragraph (c) (1) (ii) shall not apply to any motor to be used on board any vessel owned or operated by the Army, Navy, Maritime Commission or War Shipping Administration: *Provided, however,* That in any case where the requirements of General Limitation Order L-147, or any action taken by the Director General for Operations thereunder shall be more restrictive than the requirements of this subparagraph, the former shall apply.

(iii) Where practicable, AC polyphase motors shall be single voltage.

(iv) All alternating current multi-speed motors shall be single-winding; except motors for use in metal cutting machines.

(v) No motor shall be of slip ring type, except for hoist, crane, conveyor, elevator, tow, or dragline duty.

(vi) No motor shall be direct current type; except (a) where only direct current is available to the user; or (b) for use on a metal cutting machine or on

testing equipment; or (c) where speed matching is required.

(vii) No direct current motor shall have a lower base speed than as prescribed below:

Horsepower rating:	Minimum base speed
1 to 5 incl.	600 r. p. m.
5.1 to 25 incl.	450 r. p. m.
25.1 to 75 incl.	400 r. p. m.
75.1-200	300 r. p. m.

(2) *Horsepower loading.* The following standards shall be applied in determining horsepower loads for motor ratings:

(i) Horsepower required for purposes of ascertaining load as provided herein shall be determined by test or, where test is impossible, by careful calculation or comparison with known power requirements of similar apparatus.

(ii) Where the motor rated voltage will be maintained and the ambient temperature, normally, will be below 40° C, and will only occasionally, and for short periods, equal or exceed 40° C: (a) in the case of alternating current motors rated 40° C open type, continuous duty, the horsepower rating shall be not more than 80% of the determined horsepower load; (b) in the case of alternating current or direct current motors rated 50° C semi-enclosed, or 55° C totally enclosed, continuous duty, the horsepower rating shall be not more than 91% of the determined horsepower load; and (c) in the case of direct current motors rated 40° C open type, continuous duty, the horsepower rating shall be not more than 87% of the determined horsepower load: *Provided, however,* That in any case where the application of any of the above formulae results in a horsepower rating, which is not a standard horsepower rating, the rating may be the standard horsepower rating next above the rating resulting from the application of the formula.

Example: Where the horsepower required as determined in subdivision (1), is 9.3 HP, of which 80% would be 7.44, a motor not exceeding 7.5 standard HP should be delivered.

(3) *Speed.* The following minimum standards shall be applied in determining motor speed:

(i) All alternating current motors, 25 horsepower and below shall have a synchronous speed of at least 1800 R. P. M. at 60 cycles (four pole winding), and corresponding speeds at other frequencies: *Provided, however,* That in any case where the purchaser deems such speed impracticable he shall endorse on the certification required by paragraph (d) below such facts as shall demonstrate such impracticability, and if the manufacturer shall likewise certify such impracticability on the order, the provisions of this subdivision (i) shall not apply.

(ii) All other motors shall be of the highest practicable speed for the purposes for which purchased.

(d) *Certification.* (1) Each person placing an order on and after December 10, 1942 with a manufacturer or dealer for delivery of a motor or generator, and each person who receives delivery of a motor or generator from a manufac-

turer or dealer on and after February 1, 1943, pursuant to an order placed prior to December 10, 1942, shall certify to the manufacturer or dealer, as a condition to receiving delivery, the following (in substantially the form described below) on the purchase order or in a separate document (except that there may be omitted therefrom any portion relating to provisions of this order which are inapplicable in the particular case):

The undersigned hereby certifies that:

(A) (i) He has no idle motor (or generator) in his possession, except the following which is not adaptable to his purpose for the reasons stated below:

(ii) He has been unable to obtain a used motor (or generator) for his purpose from the following dealers (at least three):

(iii) The motor (or generator) is not for purposes of replacement of existing equipment (except as otherwise authorized by the Director General for Operations, upon appeal, when copy of authorization is to be attached):

(iv) The motor (or generator) is required for installation within _____ days after delivery and is not for standby purposes.

(B) The motor or motors described in the within (or attached) order, or orders, are in compliance with paragraph (c) (1) of General Limitation Order L-221 as follows:

(Here explain how design of motor meets requirements of each subdivision of paragraph (c) (1)).

(C) Horsepower required has been carefully determined in accordance with paragraph (c) (2) (i) and the horsepower rating of the motor or motors is in accordance with paragraph (c) (2) (ii) as follows:

(Here describe method of determining horsepower rating in accordance with said paragraph)

(D) (If the motor is AC, 25 horsepower or below, and does not have a synchronous speed of at least 1800 R.P.M. at 60 cycles (4 pole winding) and corresponding speeds at other frequencies, here provide the purchaser's certification required by paragraph (c) (3) (1)).

By _____ Company
(Authorized official)

In any case where an order relates to motors or generators of the identical kind and rating covered by a certification previously furnished to the same manufacturer or dealer, any facts included in the previous certification and which have remained unchanged may be incorporated in the certification required with respect to the current order by reference to the previous certification.

(2) Such certification shall be signed by a duly authorized and responsible official, employee, or agent of the purchaser, and shall constitute a representation to the Director General for Operations, War Production Board, as well as to the supplier, of the facts certified therein.

No person shall make delivery under this order who has reason to believe that the purchaser has furnished a false cer-

tification; and no person shall falsely furnish the certification specified above.

Any manufacturer or dealer may rely upon the facts furnished in the above mentioned certification and shall not be responsible for any action taken by him under this order in reliance upon inaccurate or untrue statements therein, unless he has reason to believe that such statements are inaccurate or untrue.

(3) Each manufacturer who manufactures a motor for delivery as part of other machinery or equipment which he also manufactures shall provide and retain in his records, with respect to each such motor, a certification similar to that provided for in subparagraph (1) and (2) above, signed by a duly authorized and responsible official or employee connected with the production of such motor; but no certification shall be required by the purchaser of the machinery which includes the motor. Such certification by the manufacturer shall constitute a representation to the Director General for Operations, War Production Board, of the facts certified therein.

(e) *Authorization of Director General for Operations.* Application for the authorization of the Director General for Operations to deviate from the standards and conditions of paragraph (c) shall be made by the purchaser or proposed purchaser of the motor (or by the manufacturer in any case where the motor is to be incorporated into other machinery manufactured by the same manufacturer) by letter or telegram or other communication addressed to the General Industrial Equipment Division, War Production Board, setting forth facts sufficient to enable the Director General for Operations to determine the necessity for such authorization. If granted, the authorization shall be transmitted by the purchaser to his supplier.

(f) *Exemptions.* The limitations and restrictions of paragraphs (b), (c) and (d) of this order shall not apply (1) for 90 days following the date hereof to any motor or generator delivered to and for the direct use of the Army, the Navy, the Maritime Commission or the War Shipping Administration; (2) to any motor or generator delivered for use in any foreign country (except Canada); (3) to any motor or generator delivered to any manufacturer or dealer for resale as a motor or generator and not as part of other machinery or equipment: *Provided, however,* That all the limitations and restrictions of this order shall apply to any resale of any such motor or generator; (4) to any motor or generator to be used above deck on any vessel or to be used in the operation of combat equipment. As used herein, "combat equipment" means any combat end product (including but not limited to, ammunition and other ordnance, tanks, warships, and aircraft) prescribed for field or combat use by the Army or Navy of the United States.

(g) *Production schedules.* (1) On and after February 1, 1943, no manufacturer shall manufacture any motor or generator unless the motor or generator is included in a production schedule approved by the Director General for Operations as provided below.

(2) On or before the 20th day of December and of each succeeding calendar month, every manufacturer shall file with the Director General for Operations a report on Form PD-738 which shall include such manufacturer's proposed production schedules of motors and generators so far as then planned, and such other information as shall be required by said Form PD-738. The production schedule for the calendar month following the date of filing shall be deemed to be approved by the Director General for Operations upon receipt of the above mentioned report by the War Production Board unless and until the Director General for Operations shall otherwise direct. Regardless of the terms of any other order or rule or regulation of the War Production Board, or of any commitment by the manufacturer or any customer, the Director General for Operations may at any time change any schedule; direct the cancellation of any order held by any manufacturer whether or not included or reflected in any schedule; prescribe any other schedule for production; allocate any order theretofore received by the manufacturer to any other manufacturer; or direct the delivery of any motor or generator, in production or completed to any person, at the established price and terms. No manufacturer shall alter any approved or prescribed production schedule unless authorized or directed to do so by the Director General for Operations.

(h) *Miscellaneous provisions.*—(1) *Records and reports.* All persons affected by this order shall keep and preserve for not less than two years accurate and complete records concerning inventories, production, and sales.

All persons affected by this order shall execute and file with the War Production Board, such reports and questionnaires as the Director General for Operations shall from time to time request.

(2) *Other limitation orders.* Nothing in this order shall be construed to permit any person to sell, deliver, or otherwise transfer, or any manufacturer to purchase, receive delivery of or otherwise acquire any raw materials, semi-processed parts, or finished products in contravention of the terms of any L or M Order, or amendments or supplements thereto or other regulations of the War Production Board effective at the date of any such sale, delivery, or other transfer. Where the limitations imposed by any other L or M Order are applicable to the subject matter of this order, the most restrictive limitation shall apply, unless otherwise specifically provided herein.

(3) *Violations.* Any person who willfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(4) *Appeals.* Any appeal from the provisions of this order shall be made by filing a letter in triplicate, referring to the particular provision appealed from and stating fully the grounds of the appeal.

(5) *Communications.* All reports required to be filed hereunder, and all communications concerning this order, shall, unless otherwise directed, be addressed to: War Production Board, General Industrial Equipment Division, Washington, D. C. Ref.: L-221.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 2d day of December 1942.

ERNEST KANZLER,
Director General for Operations.

[F. R. Doc. 42-12747; Filed, December 2, 1942;
10:48 a. m.]

PART 3124—HARD-FACING MATERIALS

[General Limitation Order L-223]

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of certain alloying elements for defense, for private account and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense.

§ 3124.1 *General Limitation Order L-223—(a) Definitions.* For the purpose of this order:

(1) "Alloying element" means manganese, silicon, chromium, nickel, molybdenum, tungsten, vanadium, cobalt, tantalum, columbium, titanium, aluminum, magnesium, sodium, calcium, boron, and copper in any metallic form or combination with carbon, boron, or another metal.

(2) "Hard-facing material" means any material in any form containing 4 per cent or more of any alloying element or combination of alloying elements or requiring more than 4 per cent of any alloying element or combination of alloying elements for its manufacture, which is normally applied by a fusion welding process, such as the oxy-acetylene, metallic-arc, atomic hydrogen, or carbon-arc process as a coating, edge, or point to a metal for the purpose of providing a surface which is resistant to abrasion, corrosion, erosion, cavitation, heat, impact, or any combination of these; except that nothing in this order shall be construed to include copper base materials, or welding rods and electrodes (as defined in General Preference Order L-146, as amended from time to time) used as a filler in joining two or more pieces of metal.

(3) "Implements of war" means combat end-products, complete for tactical operations (including, but not limited to, aircraft, ammunition, armament and weapons, merchant and naval ships, tanks and vehicles), and any parts, assemblies and materials to be physically

incorporated in any of the foregoing items.

(4) "Producer" means any person making hard-facing material, or having hard-facing material made for him which he sells under his own trade name, either after altering, applying a coating or in the condition received. It shall not be deemed to include steel mills producing rods for sale only to a hard-facing material producer.

(b) *Restrictions on delivery of hard-facing material.* Except pursuant to specific authorization or direction of the Director General for Operations no person shall deliver any hard-facing material, and no person shall accept delivery of any hard-facing material, except as follows:

(1) To fill any contract or purchase order for hard-facing material to be delivered on a preference rating of AA-5 or higher for the maintenance and repair of any of the following:

(i) Any machine or equipment used exclusively in the manufacture of any of the following: implements of war; wire and radio communication equipment; synthetic rubber; aviation gasoline; explosives; dry batteries; machine tools; cement; brick; chemicals; plastics; food processing equipment; industrial electric equipment; lumber; paper; abrasive grinding wheels; and tools to be used in mechanical fixtures for cutting, shaping, forming and blanking of material, either hot or cold, and for precision gauges.

(ii) Any machine or equipment used exclusively for any of the following: mining; excavating; dredging; quarrying; drilling, producing and refining of petroleum; harbors; highways; utility plants, including but not limited to electric light and power, gas, street railway, telephone, telegraph and cable communication, and water; railroads (including track repair); and primary metal processing (i. e. steel mills, foundries, brass mills, ferro-alloy plants, magnesium plants, etc.).

(2) To fill any contract or purchase order for hard-facing material to be delivered on a preference rating of AA-5 or higher and to be physically incorporated into any of the following, or any part thereof: implements of war; valves; lathe centers; pumps; dredges; industrial electrical control equipment; pneumatic hammers; wire and radio communication equipment; automotive replacement parts, as defined in Limitation Order L-158, as amended; chemical equipment; road machinery; diesel engines; food processing equipment; oil well drilling equipment; and tools to be used in mechanical fixtures for cutting, shaping, forming and blanking of material, either hot or cold, and for precision gauges.

(3) To fill any contract or purchase order for hard-facing material for research work or field tests in connection with any of the applications listed above, except that the total to be delivered for these purposes by any producer or to be received by any person shall not exceed 100 pounds of hard-facing material per month.

(c) *Special directions.* The Director General for Operations may from time to time issue directions, specifying as to

any alloying element, the quantities and proportions which may be used in making hard-facing material, and whether and in what proportions, any such element is to be the metal, a ferro-alloy, reclaimed metal, scrap, a chemical compound or any other material containing such element.

(d) *Restrictions on inventory.* No person shall acquire hard-facing material if such acquisition will increase his supply of hard-facing material to more than a sixty-days' supply.

(e) *Existing contracts.* Fulfillment of contracts in violation of this order is prohibited regardless of whether such contracts are entered into before or after the issuance date of this order. No person shall be held liable for damages or penalties for default under any contract or order which shall result directly or indirectly from compliance with the terms of this order.

(f) *Records.* All persons affected by this order shall keep and preserve for not less than two years, accurate and complete records concerning inventories, production, deliveries, and orders for hard-facing material.

(g) *Producer's forms.* Each producer shall file monthly with the War Production Board, Ref. L-223, reports on forms PD-733, 734 and 735 and such other forms as may be from time to time prescribed.

(h) *Applicability of priorities regulations.* This order and all transactions affected thereby are subject to all applicable provisions of the Priorities Regulations of the War Production Board, as amended from time to time.

(i) *Applicability of other orders.* Insofar as any other order of the Director General for Operations may have the effect of limiting to a greater extent than herein provided the use of any material in the production of any item, the limitation of such order shall be observed.

(j) *Appeals.* Any appeal from the provisions of this order shall be made by filing a letter in triplicate, referring to the particular provision appealed from and stating fully the grounds of the appeal.

(k) *Violations.* Any person who wilfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(l) *Communications.* All communications concerning this order shall, unless otherwise directed, be addressed to: War Production Board, Steel Division, Washington, D. C., Ref.: L-223.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2(a), Pub Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 2d day of December 1942.

ERNEST KANZLER,
Director General for Operations.

[F. R. Doc. 42-12749; Filed, December 2, 1942;
10:48 a. m.]

Chapter XI—Office of Price Administration

PART 1420—BREWERY AND DISTILLERY PRODUCTS

[MPR 193, Amendment 3]

DOMESTIC DISTILLED SPIRITS

A statement of the considerations involved in the issuance of this Amendment has been issued simultaneously herewith and filed with the Division of the Federal Register.*

Subparagraphs (1) and (2) of Paragraph (d) of § 1420.13 are revoked and the following subparagraphs (1) (i) (ii) and (2) are added:

§ 1420.13 * * *

(d) *Automatic adjustments for Monopoly States.*—(1) (i) *Permitted increases.* If any seller is permitted to increase his maximum price to any Monopoly State for domestic distilled spirits under the provisions of paragraph (a) (1) (i) or (ii) or under the provisions of paragraph (a) (2) (i) of this section relating to increased costs, such Monopoly State may adjust its maximum prices for such domestic distilled spirits by applying to the gross adjusted price (exclusive of new or increased taxes) charged to it by such seller the statutory or discretionary percentage mark-up in effect in such Monopoly State on March 31, 1942.

(ii) *New or increased taxes.* If any seller is permitted to increase his maximum prices to any Monopoly State for domestic distilled spirits under the provisions of paragraph (a) (i) (iii) or under the provisions of paragraph (a) (2) (ii) relating to new or increased taxes, such Monopoly State may add to its maximum prices for such domestic distilled spirits in accordance with subparagraph (2) hereof the exact amount per case and per container which is furnished to it by its seller pursuant to subparagraph (3) of this paragraph.

(2) In increasing its maximum prices established under § 1499.2 (a) of the General Maximum Price Regulation¹ pursuant to subdivisions (i) and (ii) of subparagraph (1) hereof, any Monopoly State:

(i) May add to the amount determined from time to time pursuant to (1) (i) hereof the amount determined from time to time pursuant to (1) (ii) hereof, and

(ii) May follow its practices of March 31, 1942 with reference to the disposition of fractional and odd cents, if any, existing in the figure determined pursuant to (2) (i) hereof.

*Copies may be obtained from the Office of Price Administration.

¹ 7 F.R. 6006, 8940, 8947, 8948.

² 7 F.R. 3153, 3030, 3666, 3990, 3991, 4339, 4487, 4659, 4738, 5027, 5276, 5192, 5365, 5445, 5665, 5484, 5775, 5784, 5783, 6058, 6081, 6007, 6216, 6615, 6794, 6939, 7093, 7322, 7454, 7758, 7913, 8431, 8881, 9004, 8942, 9435, 9615, 9616.

§ 1420.14 *Effective dates of amendment.*

(c) Amendment No. 3 (§ 1420.13 (d)) to Maximum Price Regulation No. 193 as amended shall become effective December 7, 1942.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 1st day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-12730; Filed, December 1, 1942;
2:44 p. m.]

PART 1499—COMMODITIES AND SERVICES
[Supp. Reg. 14¹ of GMPR,² Amendment 69]

IMPORTED DISTILLED SPIRITS, ETC.

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and filed with the Division of the Federal Register.*

Subdivisions (i) and (ii) of subparagraph (41) of § 1499.73 (a) are revoked and the following subdivisions (i) (a) (b) and (ii) are added:

§ 1499.73 * * * (a). * * *

(41) *Imported distilled spirits and all wines; automatic adjustments for Monopoly States*—(i) (a) *Permitted increases.* In the event that any vendor of imported distilled spirits or wines, whether domestic or imported, is permitted to increase his maximum price to any Monopoly State for any imported distilled spirits or wines to cover any increased cost other than new or increased taxes, such Monopoly State may adjust its maximum prices for such imported distilled spirits or wines by applying to the gross adjusted price (exclusive of new or increased taxes) charged to it by such vendor, the statutory or discretionary percentage mark-up in effect in such Monopoly State on March 31, 1942.

(b) *New or increased taxes.* In the event that any vendor of imported distilled spirits or wines, whether domestic or imported, is permitted to increase his maximum price to any Monopoly State for any imported distilled spirits or wines to cover new or increased taxes, such Monopoly State may add to its maximum prices for such imported distilled spirits or wines in accordance with subdivision (ii) hereof the exact amount per case and per container which is furnished to it by its vendor pursuant to subparagraph (iii) below.

(ii) In increasing its maximum prices established under § 1499.2 of the General

*Copies may be obtained from the Office of Price Administration.

¹ 7 F.R. 5486, 5709, 6008, 5911, 6271, 6369, 6477, 6473, 6774, 6775, 6793, 6887, 6892, 6776, 6939, 7011, 7012, 6965, 7250, 7289, 7203, 7365, 7401, 7453, 7400, 7510, 7536, 7604, 7538, 7511, 7535, 7739, 7671, 7812, 7914, 7946, 8237, 8024, 8199, 8351, 8358, 8524, 8652, 8707, 8881, 8899, 9082, 8950, 9131, 8953, 8954, 8955, 8959, 9043, 9196, 9391, 9495, 9496, 9639.

² 7 F.R. 3153, 3030, 3666, 3990, 3991, 4339, 4487, 4659, 4738, 5027, 5276, 5192, 5365, 5445, 5665, 5484, 5775, 5784, 5783, 6058, 6081, 6007, 6216, 6615, 6794, 6939, 7093, 7322, 7454, 7758, 7913, 8431, 8881, 9004, 8942, 9435, 9615, 9616.

Maximum Price Regulation pursuant to subparagraph (i) (a) and (i) (b) hereof any Monopoly State:

(a) May add to the amount determined from time to time pursuant to (i) (a) hereof the amount determined from time to time pursuant to (i) (b) hereof, and

(b) May follow its practices of March 31, 1942 with reference to the disposition of fractional and odd cents, if any, existing in the figure determined pursuant to (ii) (a) hereof.

(b) *Effective dates.* * * *

(70) Amendment No. 69 (§ 1499.73 (a) (41) (i) and (ii)) to Supplementary Regulation No. 14 shall be effective as of December 7, 1942.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 1st day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-12731; Filed, December 1, 1942;
2:44 p. m.]

PART 1499—COMMODITIES AND SERVICES
[Order 124 Under § 1499.18 (b) of GMPR]

McKESSON & ROBBINS, INC.

ADJUSTMENT OF MAXIMUM PRICE

Order No. 124 Under § 1499.18 (b) of the General Maximum Price Regulation—Docket No. GF3-2308.

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

§ 1499.1025 *Adjustment of maximum prices for sales of Globe Anti Swine Erysipelas Serum by McKesson and Robbins, Incorporated, Minneapolis, Minnesota.* (a) The maximum prices for sales of Globe Anti Swine Erysipelas Serum by McKesson and Robbins, Incorporated, Minneapolis, Minnesota, shall be as follows:

Size:	Maximum price per package
50 cc.....	\$0.87
100 cc.....	1.56
250 cc.....	3.17

(b) All discounts, allowances and trade practices in effect with respect to sales of Globe Anti Swine Erysipelas Serum by McKesson and Robbins, Incorporated, Minneapolis, Minnesota, during March 1942 shall remain in effect under this Order No. 124.

(c) At the time of the first delivery of of Globe Anti Swine Erysipelas Serum made to each purchaser at a price determined under this Order No. 124, McKesson and Robbins, Incorporated, Minneapolis, Minnesota, shall furnish each such purchaser with the following notice:

The Office of Price Administration has permitted us to raise our maximum price to you of Globe Anti Swine Erysipelas Serum from \$0.73 to \$0.87 per 50 cc package, and from \$1.33 to \$1.56 per 100 cc package. This increase represents only that part of cost increases which we were unable to absorb, and it was granted with the understanding that other price increases would not be caused thereby. The Office of Price Administration has not permitted you or any other pur-

chaser of this product from us to raise any maximum price by reason of our increased price to you.

(d) All prayers of the applicant not granted herein are denied.

(e) This Order No. 124 may be revoked or amended by the Price Administrator at any time.

(f) This Order No. 124 (§ 1499.1025) is hereby incorporated as a section of Supplementary Regulation No. 14, which contains modifications of maximum prices established by § 1499.2.

(g) This Order No. 124 (§ 1499.1025) shall become effective December 2, 1942.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 1st day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-12732; Filed, December 1, 1942;
2:44 p. m.]

PART 1499—COMMODITIES AND SERVICES
[Order 125 Under § 1499.18 (b) of GMPR]

SIGNAL KNITTING MILLS

ADJUSTMENT OF MAXIMUM PRICE

Order No. 125 Under § 1499.18 (b) of the General Maximum Price Regulation—Docket No. GF3-233.

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

§ 1499.1026 *Adjustment of maximum prices for summer underwear sold by Signal Knitting Mills to Montgomery Ward.* (a) Signal Knitting Mills, Kain Murphy Corporation, and Ilena Mills, Incorporated, may sell and deliver, and Montgomery Ward may buy and receive the following specified styles of spring and summer underwear at prices not higher than those set forth below:

Style No.	Maximum price	
	Retail	Mail order
356	4.06 with packing.....	4.00.
357	4.12½ with packing, button side.....	4.12½ tie side, button front.
360	.....	1.95.
361	.....	2.12½ button side.
372	.....	4.12½.
373	4.37½ with packing, button side.....	4.37½ tie side, button front.
374	1.95 with packing.....	.....
375	2.20 with packing, button side.....	.....
376	2.00.....	2.00.
377	2.20 button side.....	2.25 button side.
384	.....	3.80 tie side, button front.
446	.....	2.12½.
447	.....	2.50 tie side, button front.
448	.....	2.65 tie side, button front.
470	3.62½.....	3.62½.
494	.....	3.00.
495	.....	3.12½ tie side, button front.
506	.....	4.25.
511	.....	7.75.
512	7.75.....	7.75.
514	.....	6.75.

(b) With respect to deliveries of such specified styles of spring and summer underwear on and after June 9, 1942, applicants may carry out agreements

with Montgomery Ward providing for the delivery of such underwear at prices not exceeding the applicable maximum price and also providing for an adjustment in accordance with the disposition of this application.

(c) This adjustment shall apply only to sales by applicants to Montgomery Ward.

(d) All prayers of the application not granted herein are denied.

(e) This Order No. 125 (§ 1499.1026) is hereby incorporated as a section of Supplementary Regulation No. 14, which contains modifications of maximum prices established by § 1499.2.

(f) This Order No. 125 (§ 1499.1026) shall become effective December 2, 1942. (Pub. Laws 421 and 729, 77th Cong., E.O. 9250, 7 F.R. 7871)

Issued this 1st day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-12733; Filed, December 1, 1942; 2:44 p. m.]

PART 1305—ADMINISTRATION

[General Ration Order 2]

INSTITUTIONAL USERS

Pursuant to the authority vested in the Price Administrator by Executive Order No. 9125 and by War Production Board Directive No. 1, *It is hereby ordered:*

§ 1305.201 *Records to be kept by institutional users.* (a) Every person owning any establishment which is registered as an institutional establishment pursuant to the Sugar or Coffee Rationing Regulations (Rationing Order No. 3¹ and Ration Order No. 12²) shall keep separately for each such establishment records containing the following information for the month of December 1942:

(1) Number of persons served. (If a person eats more than once in the establishment he shall be counted separately each time.)

(2) Gross dollar revenue from service of food and non-alcoholic beverages.

(3) The amount used of each commodity listed in paragraph (b) of this section.

(4) The amount of each such commodity on hand at the close of business December 31, 1942.

(b) The commodities with respect to which such records shall be kept, and the applicable units of measurements, are as follows:

Commodity	Unit
Sugar	lbs.
Coffee	lbs.
Butter	lbs.
Poultry	lbs.
Meats (including canned and edible parts, such as liver, hearts, kidneys)	lbs.
Pork	lbs.
Beef	lbs.
Veal	lbs.
Lamb and mutton	lbs.
Sausage, scrapple, luncheon meats, etc.	lbs.

¹ 7 F.R. 2966, 3242, 3783, 4554, 4618, 5193, 5361, 6057, 6084, 6473, 6828, 6937, 7289, 7406, 7321, 7510, 7557, 8402, 8655, 8739, 8809, 8710, 8830, 8831, 9042, 9396, 9560.

² 7 F.R. 9710.

Commodity	Unit
Canned fish	lbs.
Cheese (except cottage, pot and bakers')	lbs.
Margarine	lbs.
Lard and compound shortening	lbs.
Cooking and salad oil	lbs.
Canned soup	lbs.
All canned fruits and vegetables*	lbs.
All canned fruit and vegetable juices*	lbs.
Commercially frozen fruits and vegetables	lbs.
All dried or dehydrated fruits	lbs.
All dried peas and beans	lbs.
Canned evaporated and condensed milk	lbs.
Fresh milk	gal.
Fresh cream	gal.
Ice cream	gal.

*Records with respect to canned fruits, vegetables and juices shall include all such commodities whether in tins, jars or bottles. Catsup and chili sauce shall be included, but not olives, pickles, jams, and jellies.

(c) The person required to keep the records shall retain them until January 31, 1944.

§ 1305.399 *Effective date.* This General Order No. 2 (§§ 1305.201 and 1305.399) shall become effective this 1st day of December 1942.

(Pub. Laws 421, 729, 77th Cong.; E.O. 9125, 7 F.R. 2719; W.P.B. Dir. 1, 7 F.R. 562)

Issued this 1st day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-12711; Filed, December 1, 1942; 1:27 p. m.]

PART 1307—RAW MATERIALS FOR COTTON TEXTILES

[MPR 33, Amendment 1]

CARDED COTTON YARNS AND THE PROCESSING THEREOF

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and filed with the Division of the Federal Register.*

The term "greige" is substituted for the term "grey" wherever the latter term is used in subparagraphs (2), (4) and (8) of paragraph (a) of § 1307.64 and subparagraph (1) (ii) of paragraph (d) of § 1307.69. § 1307.55 is amended, in paragraph (a) of § 1307.64, subparagraph (5) (v) is amended and Table I is deleted, in § 1307.63, paragraph (c) is amended, a new § 1307.65a is added, in § 1307.67, paragraphs (f) and (g) are amended and a new paragraph (h) is added, in paragraph (b) of § 1307.68, Table V is amended and in § 1307.69, a footnote is added to subparagraph (1) (i) of paragraph (c) and a footnote is added to subparagraph (1) (i) of paragraph (d) as set forth below:

§ 1307.55 *Reports to be submitted to the Office of Price Administration, Washington, D. C., by producers of carded cotton yarns.* On or before the 10th day of each calendar month commencing with a date hereafter to be designated, each producer of carded cotton yarns for which maximum prices are established in paragraph (f) of § 1307.67 (discounted yarns) shall report to the Office of Price Administration, Washington, D. C. all

*Copies may be obtained from the Office of Price Administration.

¹ 7 F.R. 7557, 8948.

sales of such yarns made during the preceding calendar month. Such reports shall contain with respect to each such sale: (a) the date; (b) the name and address of the purchaser; (c) a description of the yarns sold, including the number, ply, percentage of low-grade cotton and/or cotton waste and the other specifications of the yarn; (d) a description of the type, kind and quality of the low-grade cotton and/or cotton waste used in the yarn and the replacement cost per pound to the producer of the low-grade cotton and/or cotton waste; (e) a statement of the differences per pound in manufacturing costs which were taken into consideration by the producer in determining his maximum price under § 1307.67; (f) the amount of the discount allowed in accordance with paragraph (f) (2) of § 1307.67; (g) the quantity sold; and (h) the price per pound contracted for or received therefor.

§ 1307.63 *Exempt sales.* The provisions of this Maximum Price Regulation No. 33 shall not apply to:

(c) Sales of seine twine and other yarns produced by two-process twisting and of all yarns twisted on a Brownell or Haskall-Dawes type machine;

§ 1307.64 *Definitions of terms used.*

(a) When used in this Maximum Price Regulation No. 33, the term:

(5) "Base grade yarn" means clean uniform greige carded yarns of the following specifications:

(v) *Cotton content.* American cotton of such grade, not inferior to strict low middling (white), and such staple length as may be required by the individual producer to produce a clean uniform carded cotton yarn possessing a tensile strength sufficient for the use to which the yarn is to be put. As used herein, the term "American Cotton" means all kinds of cotton grown in the United States except Sea Island, SXP and Pima.

§ 1307.67 *Appendix B: Maximum prices for greige carded cotton yarns.*

(f) *Discounts.*—(1) *Discounts for yarns containing low-grade² cotton and/or cotton waste.* The maximum price for carded cotton yarn which contains low-grade cotton and/or cotton waste shall be a price in line with the maximum price set forth herein for base grade yarn of the same number and ply. As used herein, the term "in line with" means having a justifiable relation to the maximum price for the base-grade yarn of the same number and ply with a decrease in price commensurate with the decrease in his material costs³ resulting

² For the purposes of this Maximum Price Regulation No. 33, any cotton which is quoted at a price lower than the price quoted for strict low middling (white) cotton of the same staple length in the official average quotation of the 10 designated spot cotton markets published by the Agricultural Marketing Administration of the United States Department of Agriculture is "low-grade".

³ The producer shall determine the decrease in his material costs in the following ways: (a) when he uses low-grade cotton he shall determine the difference in selling price on

from his use of the low-grade cotton and/or cotton waste. In determining his "in line with" price, allowance may be made by the producer for increased manufacturing costs which he may incur in producing such yarns. Solely for the purposes of computing an "in line with" price under this paragraph a producer shall employ the following maximum prices for base-grade yarns of numbers less than 6:

(Cents per pound)		
Yarn No.	Single	Ply
15s.....	35.25	37.75
20s.....	35.50	38
30s.....	35.75	38.25
40s.....	36	38.5
50s.....	36.25	38.75

(2) *Discounts for yarns which are not clean and uniform.* The maximum price for carded cotton yarn which is not clean and uniform shall be 90% of the otherwise applicable maximum price if such yarn were clean and uniform: *Provided*, That a yarn containing cotton waste shall be subject only to the discount required by subparagraph (1) above of this § 1307.67.

(g) *Premiums for carded cotton yarns composed of long staple, high grade and/or Sea Island, SXP or Pima cotton; petitions to be filed with the Office of Price Administration, Washington, D. C.* Any producer who (1) produces carded cotton yarn composed of a longer staple cotton than the applicable staple length set forth below,⁵ of high grade cotton and/or of Sea Island, SXP or Pima cotton and (2) can show that the use of such cotton is reasonably related to the tensile or other specifications required in the yarn by the purchaser thereof, may file a petition for adjustment in accordance with Revised Procedural Regulation No. 1.⁶ This petition shall contain or be accompanied by the following with respect to such yarn:

(i) The number, ply and other specifications of the yarn;

the business day immediately preceding the sale of the yarn between the low-grade cotton and strict low middling (white) cotton of the same staple length set forth in the most recent official average quotation of the 10 designated spot cotton markets published by the Agricultural Marketing Administration of the United States Department of Agriculture; and (b) when he uses cotton waste, he shall use the difference between the replacement cost for such cotton waste, and the price listed for strict low middling (white) cotton of the staple length specified for the same yarn number in footnote 5 (paragraph (g) of this § 1307.67) in the official average quotation of the 10 designated spot cotton markets published by the Agricultural Marketing Administration of the United States Department of Agriculture.

⁴ For the purposes of this Maximum Price Regulation No. 33, any grade of cotton higher than middling is "high grade".

Yarn number:	Staple length
Up to 16s.....	3 1/2"
17s to 24s.....	1 1/10"
25s to 30s.....	1 3/32"
31s to 40s.....	1 1/8"
41s and up.....	1 3/32"

⁵ 7 F.R. 8961.

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(ii) Evidence to show that the use of long staple or high-grade cotton is reasonably related to the tensile or other specifications required in the yarn by the purchaser;

(iii) Full size samples from both sides of at least 5 bales of the cotton to be used by the producer in producing the yarn;

(iv) Samples of such yarn and of his base-grade yarn of the same number and ply and the 10 most recent reports of breaking strength tests of both yarns prior to the filing of the petition;

(v) The highest and the lowest price for which the producer sold such yarn and the base-grade yarn of the same number and ply during each month of the calendar year of 1940;

(vi) An analysis of the costs involved in the production of such yarn as compared with the costs involved in the production of base-grade yarn of the same number and ply; and

(vii) A description of the extent to which the processes involved in the production of such yarns vary from the processes used in the production of base-grade yarns.

(h) *Premiums for double-carded yarns; petitions for adjustment to be filed with the Office of Price Administration, Washington, D. C.* Any producer who produces double-carded yarns may file a petition for adjustment of his maximum price in accordance with Revised Procedural Regulation No. 1. This petition shall contain the following: (1) the sales price of double-carded yarn on each day during the calendar year of 1940 on which a sale thereof was made and the price contracted for or quoted on each such day by the producer for single-carded yarns of the same number and ply; (2) the amount of the premium requested by the petitioner for double-carded yarns; and (3) an analysis of the costs involved in the production of double-carded yarns as compared with the costs involved in the production of single-carded yarns of the same number and ply.

§ 1307.68 *Appendix C: Maximum prices for sales of stock yarn; sales by jobbers.* * * *

(b) *Maximum prices for sales of stock yarn.* * * *

TABLE V—PREMIUMS FOR SALES OF STOCK YARN BY JOBBERS

Sales on which premiums are allowed	Premium
Sales of broken case ¹ lots in quantities of 1500 pounds or less per calendar month to a given customer.....	10%
<i>Provided</i> , That no jobber shall avail himself of this premium on that portion of such sales in any calendar month which is in excess of 15,000 pounds to all of his customers.	
Sales of broken case lots in quantities in excess of 1500 pounds per calendar month to a given customer.....	5%
<i>Provided</i> , That no jobber shall avail himself of this premium on that portion of such sales in any calendar month which is in excess of 15,000 pounds to all of his customers.	

¹ As used in this Table V, the term "broken case" means a case from which at least 25 per cent of the contents have been removed.

TABLE V—PREMIUMS FOR SALES OF STOCK YARN BY JOBBERS—Continued

Sales on which premiums are allowed—Continued	Premium
Sales of 1 to 3 unbroken cases.....	5%
<i>Provided</i> , That no jobber shall avail himself of this premium on that portion of his sales in any calendar month which is in excess of 3,000 pounds to the same customer or 20,000 pounds to all of his customers.	

§ 1307.69 *Appendix D: Maximum prices for processed carded cotton yarns and the processing thereof.* * * *

(c) *Maximum prices for mercerizing, bleaching and/or gassing—(1) Explanation of Table VI—(i) Quilling, winding and handling charges.* The maximum prices set forth below include all charges for quilling, cone winding and special handling: *Provided*, That if the processor does not quill or wind, his maximum price shall be the price shown herein less his customary charge¹ for quilling or winding.

(d) *Maximum prices for mercerized, bleached and/or gassed yarns—(1) Explanation of Table VII—(i) Quilling, winding and handling charges.* The premiums set forth below include all charges for quilling, cone winding and special handling: *Provided*, That if the processor does not quill or wind, his maximum price shall be the price shown herein less his customary charge¹ for quilling or winding.

§ 1307.65a *Effective dates of amendments.* (a) Amendment No. 1 (§§ 1307.55, 1307.63 (c), 1307.64 (a) (2) (4) (5) (v) and (8), 1307.65a, 1307.67 (f), (g) and (h), 1307.68 (b), 1307.69 (c) and (d)) to Maximum Price Regulation No. 33 shall become effective as follows: September 28, 1942, insofar as it amends subparagraphs (5) (v) of § 1307.64 (a); and on December 7, 1942, insofar as it amends §§ 1307.55, 1307.63 (c), 1307.64 (a) (2) (4) and (8), 1307.67 (f), (g) and (h), 1307.68 (b) and 1307.69 (c) and (d). (Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

¹ In determining his maximum price for processing in accordance with this subparagraph, a processor who has not made a customary charge for quilling or winding shall subtract the cost which he would normally incur for the performance of these operations. A processor shall compute this "cost" by giving due consideration not only to the direct labor cost which would be involved but also to the overhead and other costs which he recognizes in his normal accounting procedure.

² In determining his maximum price for processed yarns in accordance with this subparagraph, a processor who has not made a customary charge for quilling or winding shall subtract the cost he would normally incur for the performance of these operations. A processor shall compute this cost by giving due consideration, not only to the direct labor cost which would be involved, but also to the overhead and other costs which he recognizes in his normal accounting procedure.

Issued this 1st day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-12713; Filed, December 1, 1942;
1:27 p. m.]

**PART 1315—RUBBER AND PRODUCTS AND
MATERIALS OF WHICH RUBBER IS A COM-
PONENT**

[Ration Order 1A, Amendment 2]

TIRES, TUBES, RECAPPING AND CAMELBACK

A rationale for this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

A new § 1315.511 is added, and §§ 1315.504 (a) and 1315.601 (d) are amended to read as follows:

§ 1315.504 (a) *Certificate of war necessity.* That he holds a currently valid certificate of war necessity with respect to such vehicle and that the tires have been currently inspected and passed as required by General Order ODT No. 21; and

§ 1315.511 *Temporary suspension of certificate of war necessity requirement.* (a) Up to and including December 31, 1942 only, no person shall be required to comply with the provisions of §§ 1315.504 (a) or 1315.601 (d) with respect to the possession or presentation of a certificate of war necessity, if he certifies in writing upon his application for tires, tubes or recapping service that he has made application to the Office of Defense Transportation for a certificate of war necessity but has received no notice of any final action thereon, and specifies the address of the Local Allocation Office of the Office of Defense Transportation with which his application for a certificate of war necessity was filed and the date on which such application was filed.

(b) Up to and including December 31, 1942, only, any person who has made application to the Office of Defense Transportation for a certificate of war necessity but has received no notice of any final action thereon, shall not be required to comply with the provisions of § 1315.802 (a) (4) with respect to the possession of a certificate of war necessity, the provisions of § 1315.901 (h) with respect to obtaining and keeping current such records of tire inspection as are required by the Office of Defense Transportation, the provisions of § 1315.901 (i) with respect to the filing of a declaration of tires as required by the Office of Defense Transportation, or the provisions of § 1315.901 (k) with respect to any of the above certificates, records or declarations.

§ 1315.601 * * *

(d) *Certificate of war necessity.* Any applicant for tires, tubes or recapping service for a commercial motor vehicle shall present to the Board a currently

valid certificate of war necessity for such vehicle.

§ 1315.1199 *Effective dates of amendment.* * * *

(b) Amendment No. 2 (§§ 1315.504, 1315.511 and 1315.601) to Ration Order No. 1A shall become effective December 1, 1942.

(Pub. Law 671, 76 Cong., Pub. Laws 89, 421 and 507, 77th Cong.; E.O. 9125, 7 F.R. 2719, issued April 7, 1942, W.P.B. Dir. No. 1, 7 F.R. 562, Supp. Dir. No. 1Q, 7 F.R. 9121)

Issued this 1st day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-12714; Filed, December 1, 1942;
1:28 p. m.]

**PART 1315—RUBBER AND PRODUCTS AND
MATERIALS OF WHICH RUBBER IS A
COMPONENT**

[Ration Order 1A, Amendment 3]

TIRES, TUBES, RECAPPING AND CAMELBACK

A rationale for this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

Section 1315.1198 is amended as follows:

§ 1315.1198 *Effective date of Ration Order No. 1A.* (a) Ration Order No. 1A (§§ 1315.151 to 1315.1198 inclusive) shall become effective December 1, 1942, except that in the Territories and possessions of the United States it shall become effective March 1, 1943.

(b) Ration Order No. 1A (§§ 1315.151 to 1315.1198 inclusive) supersedes War Production Board Supplementary Order No. M-15-c, as amended,² and the Revised Tire Rationing Regulations, as amended.³ *Provided, however,* That any violations which occurred or rights or liabilities which have arisen prior to the effective date of this Ration Order No. 1A shall be governed by the orders, regulations, and amendments thereto, in effect at the time such violations occurred or such rights or liabilities arose: *And provided, further,* That the Revised Tire Rationing Regulations, as amended,³ shall remain in full force and effect in the Territories and possessions of the United States until March 1, 1943.

§ 1315.1199 *Effective dates of amendment.* * * *

(c) Amendment No. 3 (§ 1315.1198) to Ration Order No. 1A shall become effective December 1, 1942.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421 and 507, 77th Cong.; E.O. 9125, 7 F.R. 2719, issued April 7, 1942, W.P.B. Dir. No. 1, 7 F.R. 562, Supp. Dir. No. 1Q, 7 F.R. 9121)

Issued this 1st day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-12715; Filed, December 1, 1942;
1:28 p. m.]

PART 1388—DEFENSE-RENTAL AREAS

[Maximum Rent Regulation 52]

**HOUSING ACCOMMODATIONS OTHER THAN
HOTELS AND ROOMING HOUSES**

In the judgment of the Administrator, rents for housing accommodations within the Santa Maria Defense-Rental Area set out in § 1388.681 (a) of this Maximum Rent Regulation, as designated in the designation and rent declaration issued by the Administrator on April 28, 1942, as amended, have not been reduced and stabilized by State or local regulation, or otherwise, in accordance with the recommendations set forth in the said designation and rent declaration.

It is the judgment of the Administrator that by April 1, 1941, defense activities had not yet resulted in increases in rents for housing accommodations within the Santa Maria Defense-Rental Area inconsistent with the purposes of the Emergency Price Control Act of 1942. The Administrator has therefore ascertained and given due consideration to the rents prevailing for housing accommodations within the Santa Maria Defense-Rental Area on or about July 1, 1941. The Administrator has made adjustments for such relevant factors as he has determined and deemed to be of general applicability in respect of such housing accommodations, including increases or decreases in property taxes and other costs.

In the judgment of the Administrator, the maximum rents established by this Maximum Rent Regulation for housing accommodations within the Santa Maria Defense-Rental Area will be generally fair and equitable and will effectuate the purposes of the Emergency Price Control Act of 1942.

Therefore, under the authority vested in the Administrator by the Act, this Maximum Rent Regulation No. 52 is hereby issued.

AUTHORITY: §§ 1388.681 to 1388.694, inclusive, issued under Pub. Law 421, 77th Cong.

§ 1388.681 *Scope of regulation.* (a) This Maximum Rent Regulation No. 52 applies to all housing accommodations within the Santa Maria Defense-Rental Area, consisting of Judicial Townships Nos. 4, 5, 6, 7, 9 and 10 in the County of Santa Barbara in the State of California (referred to hereinafter in this Maximum Rent Regulation as the "Defense-Rental Area"), as designated in the designation and rent declaration (§§ 1388.1201 to 1388.1205, inclusive) issued by the Administrator on April 28, 1942, as amended, except as provided in paragraph (b) of this section.

(b) This Maximum Rent Regulation does not apply to the following:

- (1) Housing accommodations situated on a farm and occupied by a tenant who is engaged for a substantial portion of his time in farming operations thereon;
- (2) Dwelling space occupied by domestic servants, caretakers, managers, or other employees to whom the space is provided as part of their compensation and who are employed for the purpose of rendering services in connection with the premises of which the dwelling space is a part;

*Copies may be obtained from the Office of Price Administration.

¹ 7 F.R. 9160, 9392.

² 7 F.R. 9160, 9392, *supra*.

³ 6 F.R. 8792.

⁴ 7 F.R. 1027.

(3) Rooms or other housing accommodations within hotels or rooming houses, or housing accommodations which have been, with the consent of the Administrator, brought under the control of the Maximum Rent Regulation for Hotels and Rooming Houses pursuant to the provisions of that regulation: *Provided*, That this Maximum Rent Regulation does apply to entire structures or premises though used as hotels or rooming houses;

(4) Housing accommodations rented to the United States acting by the National Housing Agency: *Provided, however*, That this Maximum Rent Regulation does apply to a sublease or other subrenting of such accommodations or any part thereof.

(c) The provisions of any lease or other rental agreement shall remain in force pursuant to the terms thereof, except insofar as those provisions are inconsistent with this Maximum Rent Regulation.

(d) An agreement by the tenant to waive the benefit of any provision of this Maximum Rent Regulation is void. A tenant shall not be entitled by reason of this Maximum Rent Regulation to refuse to pay or to recover any portion of any rents due or paid for use or occupancy prior to the effective date of this Maximum Rent Regulation.

§ 1388.682 *Prohibition against higher than maximum rents.* (a) Regardless of any contract, agreement, lease or other obligation heretofore or hereafter entered into, no person shall demand or receive any rent for use or occupancy on and after the effective date of this Maximum Rent Regulation No. 52 of any housing accommodations within the Defense-Rental Area higher than the maximum rents provided by this Maximum Rent Regulation; and no person shall offer, solicit, attempt, or agree to do any of the foregoing. Lower rents than those provided by this Maximum Rent Regulation may be demanded or received.

(b) Notwithstanding any other provision of this Maximum Rent Regulation, where housing accommodations are heated with fuel oil the landlord of such accommodations may as hereinafter provided enter into an agreement with the tenant providing for payment by the tenant of part or all of the cost of changing the heating unit to use some fuel other than oil or of installing a new heating unit using some fuel other than oil. Prior to making such agreement the landlord shall in writing report the terms of the proposed agreement to the Area Rent Office. The landlord may enter into the agreement either upon its approval by the Administrator or, unless the Administrator has disapproved the proposed agreement within 5 days after the filing of such report, upon the expiration of such 5-day period.

(c) Where a lease of housing accommodations was entered into prior to the effective date of this Maximum Rent Regulation and the tenant as a part of such lease or in connection therewith was granted an option to buy the housing accommodations which were the subject of the lease, with the further provision that some or all of the payments made under

the lease should be credited toward the purchase price in the event such option is exercised, the landlord, notwithstanding any other provision of this Maximum Rent Regulation, may be authorized to receive payments made by the tenant in accordance with the provisions of such lease and in excess of the maximum rent for such housing accommodations. Such authority may be secured only by a written request of the tenant to the Area Rent Office and shall be granted by order of the Administrator if he finds that such payments in excess of the maximum rent will not be inconsistent with the purposes of the Act or this Maximum Rent Regulation and would not be likely to result in the circumvention or evasion thereof. After entry of such order the landlord shall be authorized to demand, receive and retain payments provided by the lease in excess of the maximum rent for periods commencing on or after the effective date of this Maximum Rent Regulation. After entry of such order, the provisions of the lease may be enforced in accordance with law, notwithstanding any other provision of this Maximum Rent Regulation: *Provided, however*, That if at the termination of the lease the tenant shall not exercise the option to buy, the landlord may thereafter remove or evict the tenant only in accordance with the provisions of § 1388.686 of this Maximum Rent Regulation. Nothing in this paragraph shall be construed to authorize the landlord to demand or receive payments in excess of the maximum rent in the absence of an order of the Administrator as herein provided. Where a lease of housing accommodations has been entered into on or after the effective date of this Maximum Rent Regulation, and the tenant as a part of such lease or in connection therewith has been granted an option to buy the housing accommodations which are the subject of the lease, the landlord, prior to the exercise by the tenant of the option to buy, shall not demand or receive payments in excess of the maximum rent, whether or not such lease allocates some portion or portions of the periodic payments therein provided as payments on or for the option to buy.

§ 1388.683 *Minimum services, furniture, furnishings and equipment.* Except as set forth in § 1388.685 (b), every landlord shall, as a minimum, provide with housing accommodations the same essential services, furniture, furnishings and equipment as those provided on the date determining the maximum rent, and as to other services, furniture, furnishings and equipment not substantially less than those provided on such date: *Provided, however*, That where fuel oil is used to supply heat or hot water for housing accommodations, and the landlord provided heat or hot water on the date determining the maximum rent, the heat and hot water which the landlord is required to supply shall not be in excess of the amount which he can supply under any statute, regulation, or order of the United States or any agency thereof which rations or limits the use of fuel oil.

§ 1388.684 *Maximum rents.* Maximum rents (unless and until changed

by the Administrator as provided in § 1388.685 shall be:

(a) For housing accommodations rented on July 1, 1941, the rent for such accommodations on that date.

(b) For housing accommodations not rented on July 1, 1941, but rented at any time during the two months ending on that date, the last rent for such accommodations during that two-month period.

(c) For housing accommodations not rented on July 1, 1941, nor during the two months ending on that date, but rented prior to the effective date of this Maximum Rent Regulation No. 52, the first rent for such accommodations after July 1, 1941. The Administrator may order a decrease in the maximum rent as provided in § 1388.685 (c).

(d) For (1) newly constructed housing accommodations without priority rating first rented after July 1, 1941 and before the effective date of this Maximum Rent Regulation, or (2) housing accommodations changed between those dates so as to result in an increase or decrease of the number of dwelling units in such housing accommodations, or (3) housing accommodations changed between those dates from unfurnished to fully furnished, or from fully furnished to unfurnished, or (4) housing accommodations substantially changed between those dates by a major capital improvement as distinguished from ordinary repair, replacement and maintenance, the first rent for such accommodations after such construction or change: *Provided, however*, That, where such first rent was fixed by a lease which was in force at the time of a major capital improvement, the maximum rent shall be the first rent after termination of such lease. The Administrator may order a decrease in the maximum rent as provided in § 1388.685 (c).

(e) For (1) newly constructed housing accommodations without priority rating first rented on or after the effective date of this Maximum Rent Regulation, or (2) housing accommodations changed on or after such effective date so as to result in an increase or decrease of the number of dwelling units in such housing accommodations, or (3) housing accommodations not rented at any time between May 1, 1941 and such effective date, the first rent for such accommodations after the change or the effective date, as the case may be. Within 30 days after so renting the landlord shall register the accommodations as provided in § 1388.687. The Administrator may order a decrease in the maximum rent as provided in § 1388.685 (c).

(f) For housing accommodations constructed with priority rating from the United States or any agency thereof for which the rent has been heretofore or is hereafter approved by the United States or any agency thereof, the rent so approved, but in no event more than the rent on July 1, 1941, or, if the accommodations were not rented on that date, more than the first rent after that date.

(g) For housing accommodations constructed by the United States or any agency thereof, or by a State of the United States or any of its political sub-

divisions, or any agency of the State or any of its political subdivisions, and owned by any of the foregoing, the rent generally prevailing in the Defense-Rental Area for comparable housing accommodations on July 1, 1941, as determined by the owner of such accommodations: *Provided, however,* That any corporation formed under the laws of a State shall not be considered an agency of the United States within the meaning of this paragraph. The Administrator may order a decrease in the maximum rent as provided in § 1388.685 (c).

(h) For housing accommodations rented to either Army or Navy personnel, including civilian employees of the War and Navy Departments, for which the rent is fixed by the national rent schedule of the War or Navy Department, the rents established on the effective date of this Maximum Rent Regulation by such rent schedule. The Administrator may order an increase in such rents, if he finds that such increase is not inconsistent with the purposes of the Act or this Maximum Rent Regulation.

§ 1388.685 *Adjustments and other determinations.* In the circumstances enumerated in this section, the Administrator may issue an order changing the maximum rents otherwise allowable or the minimum services required. In those cases involving a major capital improvement, an increase or decrease in the furniture, furnishings or equipment, an increase or decrease of services or a deterioration, the adjustment in the maximum rent shall be the amount the Administrator finds would have been on July 1, 1941 the difference in the rental value of the housing accommodations by reason of such change: *Provided, however,* That no adjustment shall be ordered where it appears that the rent on the date determining the maximum rent was fixed in contemplation of and so as to reflect such change. In all other cases, except those under paragraphs (a) (7) and (c) (6) of this section, the adjustment shall be on the basis of the rent which the Administrator finds was generally prevailing in the Defense-Rental Area for comparable housing accommodations on July 1, 1941. In cases involving construction due consideration shall be given to increased costs of construction, if any, since July 1, 1941. In cases under paragraphs (a) (7) and (c) (6) of this section the adjustment shall be on the basis of the rents which the Administrator finds were generally prevailing in the Defense-Rental Area for comparable housing accommodations during the year ending on July 1, 1941.

(a) Any landlord may file a petition for adjustment to increase the maximum rent otherwise allowable, only on the grounds that:

(1) There has been on or after the effective date of this Maximum Rent Regulation a substantial change in the housing accommodations by a major capital improvement as distinguished from ordinary repair, replacement and maintenance.

(2) There was, on or prior to July 1, 1941, a substantial change in the housing accommodations by a major capital improvement as distinguished from ordi-

nary repair, replacement and maintenance, and the rent on July 1, 1941 was fixed by a lease or other rental agreement which was in force at the time of such change.

(3) There has been a substantial increase in the services, furniture, furnishings or equipment provided with the housing accommodations since the date or order determining its maximum rent. No increase in the maximum rent shall be ordered on the ground set forth in this paragraph (a) (3) unless the increase in services, furniture, furnishings or equipment occurred with the consent of the tenant or while the accommodations were vacant: *Provided,* That an adjustment may be ordered, although the tenant refuses to consent to the increase in services, furniture, furnishings or equipment, if the Administrator finds that such increase (i) is reasonably required for the operation of a multiple dwelling structure or other structure of which the accommodations are a part or (ii) is necessary for the preservation or maintenance of the accommodations.

(4) The rent on the date determining the maximum rent was materially affected by the blood, personal or other special relationship between the landlord and the tenant and as a result was substantially lower than the rent generally prevailing in the Defense-Rental Area for comparable housing accommodations on July 1, 1941.

(5) There was in force on July 1, 1941 a written lease, for a term commencing on or prior to July 1, 1940, requiring a rent substantially lower than the rent generally prevailing in the Defense-Rental Area for comparable housing accommodations on July 1, 1941; or the housing accommodations were not rented on July 1, 1941, but were rented during the two months ending on that date and the last rent for such accommodations during that two-month period was fixed by a written lease, for a term commencing on or prior to July 1, 1940, requiring a rent substantially lower than the rent generally prevailing in the Defense-Rental Area for comparable housing accommodations on July 1, 1941.

(6) The rent on the date determining the maximum rent was established by a lease or other rental agreement which provided for a substantially higher rent at other periods during the term of such lease or agreement.

(7) The rent on the date determining the maximum rent was substantially lower than at other times of year by reason of seasonal demand for such housing accommodations. In such cases the Administrator's order may if he deems it advisable provide for different maximum rents for different periods of the calendar year.

(b) (1) If, on the effective date of this Maximum Rent Regulation No. 52, the services provided for housing accommodations are less than the minimum services required by § 1388.683, the landlord shall either restore and maintain such minimum services or, within 30 days after such effective date, file a petition requesting approval of the decreased services. If, on such effective date, the furniture, furnishings or equipment pro-

vided with housing accommodations are less than the minimum required by § 1388.683, the landlord shall, within 30 days after such date, file a written report showing the decrease in furniture, furnishings or equipment.

(2) Except as above provided, the landlord shall, until the accommodations become vacant, maintain the minimum services, furniture, furnishings and equipment unless and until he has filed a petition to decrease the services, furniture, furnishings or equipment and an order permitting a decrease has been entered thereon; however, if it is impossible to provide the minimum services, furniture, furnishings or equipment he shall file a petition within 10 days after the change occurs. When the accommodations become vacant the landlord may, on renting to a new tenant, decrease the services, furniture, furnishings or equipment below the minimum; within 10 days after so renting the landlord shall file a written report showing such decrease.

(3) The order on any petition under this paragraph may require an appropriate adjustment in the maximum rent; and any maximum rent for which a report is required by this paragraph may be decreased in accordance with the provisions of § 1388.685 (c) (3). If the landlord fails to file the petition or report required by this paragraph within the time specified, or decreases the services, furniture, furnishings or equipment without an order authorizing such decrease where such order is required, the rent received by the landlord for any rental period commencing on or after such decrease or the effective date of this Maximum Rent Regulation, whichever is the later, shall be received subject to refund to the tenant of any amount in excess of the maximum rent which may later be fixed by any order decreasing the maximum rent on account of such decrease in services, furniture, furnishings or equipment. In such case, any order decreasing the maximum rent shall be effective to decrease such rent from the beginning of the first rental period after the decrease in services, furniture, furnishings or equipment or after the effective date of this Maximum Rent Regulation, whichever is the later. The foregoing provisions and any refund thereunder do not affect any civil or criminal liability provided by the Act for failure to comply with any requirement of this paragraph.

(c) The Administrator at any time, on his own initiative or on application of the tenant, may order a decrease of the maximum rent otherwise allowable, only on the grounds that:

(1) The maximum rent for housing accommodations under paragraphs (c), (d), (e), or (g) of § 1388.684 is higher than the rent generally prevailing in the Defense-Rental Area for comparable housing accommodations on July 1, 1941.

(2) There has been a substantial deterioration of the housing accommodations other than ordinary wear and tear since the date or order determining its maximum rent.

(3) There has been a decrease in the minimum services, furniture, furnish-

ings or equipment required by § 1388.683 since the date or order determining the maximum rent.

(4) The rent on the date determining the maximum rent was materially affected by the blood, personal or other special relationship between the landlord and the tenant and as a result was substantially higher than the rent generally prevailing in the Defense-Rental Area for comparable housing accommodations on July 1, 1941.

(5) The rent on the date determining the maximum rent was established by a lease or other rental agreement which provided for a substantially lower rent at other periods during the term of such lease or agreement.

(6) The rent on the date determining the maximum rent was substantially higher than at other times of year by reason of seasonal demand for such housing accommodations. In such cases the Administrator's order may if he deems it advisable provide for different maximum rents for different periods of the calendar year.

(d) If the rent on the date determining the maximum rent, or any other fact necessary to the determination of the maximum rent, is in dispute between the landlord and the tenant, or is in doubt, or is not known, the Administrator on petition of the landlord filed within 30 days after the effective date of this Maximum Rent Regulation, or at any time on his own initiative, may enter an order fixing the maximum rent by determining such fact; or if the Administrator is unable to ascertain such fact he shall enter the order on the basis of the rent which he finds was generally prevailing in the Defense-Rental Area for comparable housing accommodations on July 1, 1941.

(e) Where, at the expiration or other termination of an underlying lease or other rental agreement, housing accommodations or a predominant part thereof are occupied by one or more subtenants or other persons occupying under a rental agreement with the tenant, the landlord may rent the entire premises for use by similar occupancy for a rent not in excess of the aggregate maximum rents of the separate dwelling units, or may rent the separate dwelling units for rents not in excess of the maximum rents applicable to such units.

Where housing accommodations or a predominant part thereof are occupied by one or more subtenants or other persons occupying under a rental agreement with the tenant, the tenant may petition the Administrator for leave to exercise any right he would have except for this Maximum Rent Regulation to sell his underlying lease or other rental agreement. The Administrator may grant such petition if he finds that the sale will not result, and that sales of such character would not be likely to result, in the circumvention or evasion of the Act or this Maximum Rent Regulation. He may require that the sale be made on such terms as he deems necessary to prevent such circumvention or evasion.

(f) Where a petition is filed by a landlord on one of the grounds set out in

paragraph (a) of this section, the Administrator may enter an interim order increasing the maximum rent until further order, subject to refund by the landlord to the tenant of any amount received in excess of the maximum rent established by final order upon such petition. The receipt by the landlord of any increased rent authorized by such interim order shall constitute an agreement by the landlord with the tenant to refund to the tenant any amount received in excess of the maximum rent established by final order. The landlord shall make such refund either by repayment in cash or, where the tenant remains in occupancy after the effective date of the final order, by deduction from the next installment of rent, or both.

(g) No adjustment in the maximum rent shall be ordered on the ground that the landlord, since the date or order determining the maximum rent, has, as a part of or in connection with a lease of housing accommodations, granted the tenant an option to buy the accommodations which are the subject of the lease. Where a lease of housing accommodations was in force on the date determining the maximum rent, and the landlord had on that date, as a part of or in connection with such lease, granted the tenant an option to buy the accommodations which are the subject of the lease, the Administrator may, on or after the termination of such lease, on his own initiative or on application of the tenant, enter an order fixing the maximum rent on the basis of the rents which the Administrator finds were generally prevailing in the Defense-Rental Area for comparable housing accommodations not subject to an option to buy on July 1, 1941.

§ 1388.686 *Restrictions on removal of tenant.* (a) So long as the tenant continues to pay the rent to which the landlord is entitled, no tenant shall be removed from any housing accommodations, by action to evict or to recover possession, by exclusion from possession, or otherwise, nor shall any person attempt such removal or exclusion from possession, notwithstanding that such tenant has no lease or that his lease or other rental agreement has expired or otherwise terminated, and regardless of any contract, lease, agreement or obligation heretofore or hereafter entered into which provides for entry of judgment upon the tenant's confession for breach of the covenants thereof or which otherwise provides contrary hereto, unless:

(1) The tenant, who had a written lease or other written rental agreement, has refused upon demand of the landlord to execute a written extension or renewal thereof for a further term of like duration but not in excess of one year but otherwise on the same terms and conditions as the previous lease or agreement except insofar as such terms and conditions are inconsistent with this Maximum Rent Regulation No. 52; or

(2) The tenant has unreasonably refused the landlord access to the housing accommodations for the purpose of inspection or of showing the accommodations to a prospective purchaser,

mortgagee or prospective mortgagee, or other person having a legitimate interest therein: *Provided, however,* That such refusal shall not be ground for removal or eviction if such inspection or showing of the accommodations is contrary to the provisions of the tenant's lease or other rental agreement; or

(3) The tenant (i) has violated a substantial obligation of his tenancy, other than an obligation to pay rent, and has continued, or failed to cure, such violation after written notice by the landlord that the violation cease, or (ii) is committing or permitting a nuisance or is using or permitting a use of the housing accommodations for an immoral or illegal purpose; or

(4) The tenant's lease or other rental agreement has expired or otherwise terminated, and at the time of termination the housing accommodations or a predominant part thereof are occupied by one or more subtenants or other persons who occupied under a rental agreement with the tenant; or

(5) The landlord seeks in good faith to recover possession for the immediate purpose of demolishing the housing accommodations or of substantially altering or remodeling it in a manner which cannot practicably be done with the tenant in occupancy and the plans for such alteration or remodeling have been approved by the proper authorities, if such approval is required by local law; or

(6) The landlord owned, or acquired an enforceable right to buy or the right to possession of, the housing accommodations prior to the effective date of this Maximum Rent Regulation, and seeks in good faith to recover possession of such accommodations for immediate use and occupancy as a dwelling for himself. If a tenant has been removed or evicted under this paragraph (a) (6) from housing accommodations, the landlord shall file a written report on a form provided therefor before renting the accommodations or any part thereof during a period of six months after such removal or eviction.

(b) (1) No tenant shall be removed or evicted on grounds other than those stated above unless, on petition of the landlord, the Administrator certifies that the landlord may pursue his remedies in accordance with the requirements of the local law. The Administrator shall so certify if the landlord establishes that removals or evictions of the character proposed are not inconsistent with the purposes of the Act or this Maximum Rent Regulation and would not be likely to result in the circumvention or evasion thereof.

(2) Removal or eviction of a tenant for occupancy by a purchaser who has acquired his rights in the housing accommodations on or after the effective date of this Maximum Rent Regulation, is inconsistent with the purposes of the Act and this Maximum Rent Regulation and would be likely to result in the circumvention or evasion thereof, unless (i) the payment or payments of principal made by the purchaser, excluding any payments made from funds borrowed for the purpose of making such principal payments, aggregate 33⅓% or more of

the purchase price, and (ii) a period of three months has elapsed after the issuance of a certificate by the Administrator as hereinafter provided. For the purposes of this paragraph (b) (2), the payments of principal may be made by the purchaser conditionally or in escrow to the end that they shall be returned to the purchaser in the event the Administrator denies a petition for a certificate. If the Administrator finds that the required payments of principal have been made, he shall, on petition of either the vendor or purchaser, issue a certificate authorizing the purchaser to pursue his remedies for removal or eviction of the tenant in accordance with the requirements of the local law at the expiration of three months after the date of issuance of such certificate. In no other case shall the Administrator issue a certificate for occupancy by a purchaser who has acquired his rights in the housing accommodations on or after the effective date of this Maximum Rent Regulation, unless he finds that the vendor has or had a substantial necessity requiring the sale and that a reasonable sale or disposition of the accommodations could not be made without removal or eviction of the tenant, or unless he finds that other special hardship would result; under such circumstances the payment by the purchaser of 33 1/3% of the purchase price shall not be a condition to the issuance of a certificate, and the certificate shall authorize the vendor or purchaser to pursue his remedies for removal or eviction of the tenant in accordance with the requirements of the local law.

(c) The provisions of this section do not apply to a subtenant or other person who occupied under a rental agreement with the tenant, where removal or eviction of the subtenant or other such occupant is sought by the landlord of the tenant, unless under the local law there is a tenancy relationship between the landlord and the subtenant or other such occupant.

The provisions of this section shall not apply to housing accommodations rented to either Army or Navy personnel, including civilian employees of the War and Navy Departments, for which the rent is fixed by the national rent schedule of the War or Navy Department.

(d) (1) Every notice to a tenant to vacate or surrender possession of housing accommodations shall state the ground under this section upon which the landlord relies for removal or eviction of the tenant. A written copy of such notice shall be given to the Area Rent Office within 24 hours after the notice is given to the tenant.

No tenant shall be removed or evicted from housing accommodations, by court process or otherwise, unless, at least ten days prior to the time specified for surrender of possession and to the commencement of any action for removal or eviction, the landlord has given written notices of the proposed removal or eviction to the tenant and to the Area Rent Office, stating the ground under this section upon which such removal or eviction is sought and specifying the time when the tenant is required to surrender possession.

Where the ground for removal or eviction of a tenant is non-payment of rent, every notice under this paragraph (d) (1) shall state the rent for the housing accommodations, the amount of rent due and the rental period or periods for which such rent is due. The provisions of this paragraph (d) (1) shall not apply where a certificate has been issued by the Administrator pursuant to the provisions of paragraph (b) of this section.

(2) At the time of commencing any action to remove or evict a tenant, including an action based upon non-payment of rent, the landlord shall give written notice thereof to the Area Rent Office stating the title of the case, the number of the case where that is possible, the court in which it is filed, the name and address of the tenant, and the ground under this section on which removal or eviction is sought.

(e) No provision of this section shall be construed to authorize the removal of a tenant unless such removal is authorized under the local law.

§ 1388.687 *Registration.* Within 45 days after the effective date of this Maximum Rent Regulation No. 52, or within 30 days after the property is first rented, whichever date is the later, every landlord of housing accommodations rented or offered for rent shall file in triplicate a written statement on the form provided therefor to be known as a registration statement. The statement shall identify each dwelling unit and specify the maximum rent provided by this Maximum Rent Regulation for such dwelling unit and shall contain such other information as the Administrator shall require. The original shall remain on file with the Administrator and he shall cause one copy to be delivered to the tenant and one copy, stamped to indicate that it is a correct copy of the original, to be returned to the landlord. In any subsequent change of tenancy the landlord shall exhibit to the new tenant his stamped copy of the registration statement, and shall obtain the tenant's signature and the date thereof, on the back of such statement. Within five days after renting to a new tenant, the landlord shall file a notice on the form provided therefor, on which he shall obtain the tenant's signature, stating that there has been a change in tenancy, that the stamped copy of the registration statement has been exhibited to the new tenant and that the rent for such accommodations is in conformity therewith.

No payment of rent need be made unless the landlord tenders a receipt for the amount to be paid.

When the maximum rent is changed by order of the Administrator, the landlord shall deliver his stamped copy of the registration statement to the Area Rent Office for appropriate action reflecting such change.

The foregoing provisions of this Section shall not apply to housing accommodations under § 1388.684 (g). The owner of such housing accommodations shall file a schedule or schedules, setting out the maximum rents for all such accommodations in the Defense-Rental Area and containing such other information as the Administrator shall require. A

copy of such schedule or schedules shall be posted by the owner in a place where it will be available for inspection by the tenants of such housing accommodations.

The provisions of this section shall not apply to housing accommodations rented to either Army or Navy personnel, including any civilian employees of the War and Navy Departments, for which the rent is fixed by the national rent schedule of the War or Navy Department.

§ 1388.688 *Inspection.* Any person who rents or offers for rent or acts as a broker or agent for the rental of housing accommodations and any tenant shall permit such inspection of the accommodations by the Administrator as he may, from time to time, require.

§ 1388.689 *Evasion.* The maximum rents and other requirements provided in this Maximum Rent Regulation No. 52 shall not be evaded, either directly or indirectly, in connection with the renting or leasing or the transfer of a lease of housing accommodations, by way of absolute or conditional sale, sale with purchase money or other form of mortgage, or sale with option to repurchase, or by modification of the practices relating to payment of commissions or other charges or by modification of the services furnished with housing accommodations, or otherwise.

§ 1388.690 *Enforcement.* Persons violating any provision of this Maximum Rent Regulation No. 52 are subject to criminal penalties, civil enforcement actions and suits for treble damages as provided for by the Act.

§ 1388.691 *Procedure.* All registration statements, reports and notices provided for by this Maximum Rent Regulation No. 52 shall be filed with the Area Rent Office. All landlord's petitions and tenant's applications shall be filed with such office in accordance with Procedural Regulation No. 3 (§§ 1300.201 to 1300.247, inclusive).¹

§ 1388.692 *Petitions for amendment.* Persons seeking any amendment of general applicability to any provision of this Maximum Rent Regulation No. 52 may file petitions therefor in accordance with Procedural Regulation No. 3 (§§ 1300.201 to 1300.247, inclusive).

§ 1388.693 *Definitions.* (a) When used in this Maximum Rent Regulation No. 52:

(1) The term "Act" means the Emergency Price Control Act of 1942.

(2) The term "Administrator" means the Price Administrator of the Office of Price Administration, or the Rent Director or such other person or persons as the Administrator may appoint or designate to carry out any of the duties delegated to him by the Act.

(3) The term "Rent Director" means the person designated by the Administrator as director of the Defense-Rental Area or such person or persons as may be designated to carry out any of the duties delegated to the Rent Director by the Administrator.

¹ 7 F.R. 3936, 3991, 6081, 7149.

(4) The term "Area Rent Office" means the office of the Rent Director in the Defense-Rental Area.

(5) The term "person" includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of any of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing.

(6) The term "housing accommodations" means any building, structure, or part thereof, or land appurtenant thereto, or any other real or personal property rented or offered for rent for living or dwelling purposes, together with all privileges, services, furnishings, furniture, equipment, facilities and improvements connected with the use or occupancy of such property.

(7) The term "services" includes repairs, decorating and maintenance, the furnishing of light, heat, hot and cold water, telephone, elevator service, window shades, and storage, kitchen, bath, and laundry facilities and privileges, maid service, linen service, janitor service, the removal of refuse and any other privilege or facility connected with the use or occupancy of housing accommodations.

(8) The term "landlord" includes an owner, lessor, sublessor, assignee or other person receiving or entitled to receive rent for the use or occupancy of any housing accommodations, or an agent of any of the foregoing.

(9) The term "tenant" includes a subtenant, lessee, sublessee, or other person entitled to the possession or to the use or occupancy of any housing accommodations.

(10) The term "rent" means the consideration, including any bonus, benefit, or gratuity, demanded or received for the use or occupancy of housing accommodations or for the transfer of a lease of such accommodations.

(11) The term "hotel" means any establishment generally recognized as such in its community, containing more than 50 rooms and used predominantly for transient occupancy.

(12) The term "rooming house" means, in addition to its customary usage, a building or portion of a building other than a hotel in which a furnished room or rooms not constituting an apartment are rented on a short time basis of daily, weekly, or monthly occupancy to more than two paying tenants not members of the landlord's immediate family. The term includes boarding houses, dormitories, auto camps, trailers, residence clubs, tourist homes or cabins, and all other establishments of a similar nature.

(b) Unless the context otherwise requires, the definitions set forth in section 302 of the Emergency Price Control Act of 1942 shall apply to other terms used in this Maximum Rent Regulation.

§ 1388.694 *Effective date of the regulation.* This Maximum Rent Regulation No. 52 (§§ 1388.681 to 1388.694, inclusive) shall become effective December 1, 1942.

Issued this 1st day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-12719; Filed, December 1, 1942; 1:29 p. m.]

PART 1388—DEFENSE-RENTAL AREAS
[Maximum Rent Regulation 57, Amendment 1]

HOUSING ACCOMMODATIONS OTHER THAN
HOTELS AND ROOMING HOUSES

Subparagraph (12) of § 1388.581 (a) of Maximum Rent Regulation No. 57 is revoked, and § 1388.594a is added as set forth below:

§ 1388.594a *Effective dates of amendments.* (a) Amendment No. 1 (§§ 1388.581 (a) and 1388.594a) to Maximum Rent Regulation No. 57 shall become effective December 1, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 1st day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-12720; Filed, December 1, 1942; 1:29 p. m.]

PART 1388—DEFENSE-RENTAL AREAS
[Maximum Rent Regulation 58A, Amendment 1]

HOTELS AND ROOMING HOUSES

Subparagraph (12) of § 1388.631 (a) of Maximum Rent Regulation No. 58A is revoked, the reference in § 1388.641 to "Procedural Regulation No. 3 (§§ 1300.201 to 1388.247, inclusive)" is corrected to read "Procedural Regulation No. 3 (§§ 1300.201 to 1300.247, inclusive)," and § 1388.644a is added as set forth below:

§ 1388.644a *Effective dates of amendments.* (a) Amendment No. 1 (§§ 1388.631 (a) and 1388.644a) to Maximum Rent Regulation No. 58A shall become effective December 1, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 1st day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-12716; Filed, December 1, 1942; 1:28 p. m.]

PART 1388—DEFENSE-RENTAL AREAS
[Maximum Rent Regulation 59A]

HOTELS AND ROOMING HOUSES

In the judgment of the Administrator, rents for housing accommodations within the Santa Maria Defense-Rental Area set out in § 1388.731 (a) of this Maximum Rent Regulation, as designated in the designation and rent declaration issued by the Administrator on April 28, 1942, as amended, have not been reduced and stabilized by State or local regulation, or otherwise, in accordance with the recommendations set forth in the said designation and rent declaration.

It is the judgment of the Administrator that by April 1, 1941, defense activities had not yet resulted in increases in rents for housing accommodations within the Santa Maria Defense-Rental Area inconsistent with the purposes of the Emergency Price Control Act of 1942.

17 F.R. 9958.
17 F.R. 9964.

The Administrator has therefore ascertained and given due consideration to the rents prevailing for housing accommodations within the Santa Maria Defense-Rental Area on or about July 1, 1941. The Administrator has made adjustments for such relevant factors as he has determined and deemed to be of general applicability in respect of such housing accommodations, including increases or decreases in property taxes and other costs.

In the judgment of the Administrator, the maximum rents established by this Maximum Rent Regulation for rooms in hotels and rooming houses within the Santa Maria Defense-Rental Area will be generally fair and equitable and will effectuate the purposes of the Emergency Price Control Act of 1942.

Therefore, under the authority vested in the Administrator by the Act, this Maximum Rent Regulation No. 59A is hereby issued.

AUTHORITY: §§ 1388.731 to 1388.744, inclusive, issued under Pub. Law 421, 77th Cong.

§ 1388.731 *Scope of regulation.* (a) This Maximum Rent Regulation No. 59A applies to all rooms in hotels and rooming houses within the Santa Maria Defense-Rental Area consisting of Judicial Townships Nos. 4, 5, 6, 7, 9 and 10 in the County of Santa Barbara in the State of California (referred to hereinafter in this Maximum Rent Regulation as the "Defense-Rental Area"), as designated in the Designation and Rent Declaration (§§ 1388.1201 to 1388.1205, inclusive) issued by the Administrator on April 28, 1942, as amended, except as provided in paragraph (b) of this section.

(b) This Maximum Rent Regulation does not apply to the following:

(1) Rooms situated on a farm and occupied by a tenant who is engaged for a substantial portion of his time in farming operations thereon;

(2) Rooms occupied by domestic servants, caretakers, managers, or other employees to whom the rooms are provided as part of their compensation and who are employed for the purpose of rendering services in connection with the premises of which the rooms are a part;

(3) Rooms in hospitals, or rooms of charitable or educational institutions used in carrying out their charitable or educational purposes;

(4) Entire structures or premises used as hotels or rooming houses, as distinguished from the rooms within such hotels or rooming houses.

(c) The provisions of any lease or other rental agreement shall remain in force pursuant to the terms thereof, except insofar as those provisions are inconsistent with this Maximum Rent Regulation.

(d) An agreement by the tenant to waive the benefit of any provision of this Maximum Rent Regulation is void. A tenant shall not be entitled by reason of this Maximum Rent Regulation to refuse to pay or to recover any portion of any rents due or paid for use or occupancy prior to the effective date of this Maximum Rent Regulation.

(e) Where a building or establishment which does not come within the definitions of a hotel or rooming house con-

tains one or more furnished rooms or other furnished housing accommodations rented on a daily, weekly or monthly basis, the landlord may, with the consent of the Administrator, elect to bring all housing accommodations within such building or establishment under the control of this Maximum Rent Regulation. A landlord who so elects shall file a registration statement under this Maximum Rent Regulation for all such housing accommodations, accompanied by a written request to the Administrator to consent to such election.

If the Administrator finds that the provisions of this Maximum Rent Regulation establishing maximum rents are better adapted to the rental practices for such building or establishment than the provisions of this Maximum Rent Regulation for Housing Accommodations Other than Hotels and Rooming Houses, he shall consent to the landlord's election. Upon such consent, all housing accommodations within such building or establishment which are or hereafter may be rented or offered for rent shall become subject to the provisions of this Maximum Rent Regulation, and shall be considered rooms within a rooming house for the purposes of the provisions relating to eviction.

The landlord may at any time, with the consent of the Administrator, revoke his election, and thereby bring under the control of the Maximum Rent Regulation for Housing Accommodations Other than Hotels and Rooming Houses all housing accommodations previously brought under the Maximum Rent Regulation by such election. He shall make such revocation by filing a registration statement or statements under the Maximum Rent Regulation for Housing Accommodations Other than Hotels and Rooming Houses, including in such registration statement or statements all housing accommodations brought under this Maximum Rent Regulation by such election. Such registration statement or statements shall be accompanied by a written request to the Administrator to consent to such revocation. The Administrator may defer action on such request if he has taken or is about to take action to decrease the maximum rents of any housing accommodations within such building or establishment. If the Administrator finds that the revocation so requested will not result in substantial increases in the maximum rents of housing accommodations affected by such revocation, he shall give such consent. Upon such consent, all housing accommodations affected by such revocation shall become subject to the provisions of the Maximum Rent Regulation for Housing Accommodations Other than Hotels and Rooming Houses.

§ 1388.732 *Prohibition.* (a) Regardless of any contract, agreement, lease or other obligation heretofore or hereafter entered into, no person shall demand or receive any rent for use or occupancy on and after the effective date of this Maximum Rent Regulation No. 59A of any room in a hotel or rooming house within the Defense-Rental Area higher than the maximum rents provided by this Maxi-

mum Rent Regulation; and no person shall offer, solicit, attempt, or agree to do any of the foregoing. Lower rents than those provided by this Maximum Rent Regulation may be demanded or received.

(b) No tenant shall be required to change his term of occupancy if that will result in the payment of a higher amount per day than the maximum rent established for his present term of occupancy. Where, on June 15, 1942, or between that date and the effective date of this Maximum Rent Regulation, a room was regularly rented or offered for rent for a weekly or monthly term of occupancy, the landlord shall continue to offer the room for rent for that term of occupancy, unless he offers another term of occupancy for a rent which results in the payment of an amount no higher per day.

§ 1388.733 *Minimum services, furniture, furnishings and equipment.* Except as set forth in § 1388.735 (b), every landlord shall, as a minimum, provide with a room the same essential services, furniture, furnishings and equipment as those provided on the date or during the thirty-day period determining the maximum rent, and as to other services, furniture, furnishings and equipment not substantially less than those provided on such date or during such period: *Provided, however,* That where fuel oil is used to supply heat or hot water for a room, and the landlord provided heat or hot water on the date or during the thirty-day period determining the maximum rent, the heat and hot water which the landlord is required to supply shall not be in excess of the amount which he can supply under any statute, regulation or order of the United States or any agency thereof which rations or limits the use of fuel oil.

§ 1388.734 *Maximum rents.* This section establishes separate maximum rents for different terms of occupancy (daily, weekly or monthly) and numbers of occupants of a particular room. Maximum rents for rooms in a hotel or rooming house (unless and until changed by the Administrator as provided in § 1388.735) shall be:

(a) For a room rented or regularly offered for rent during the thirty days ending on July 1, 1941, the highest rent for each term or number of occupants for which the room was rented during that thirty-day period, or, if the room was not rented or was not rented for a particular term or number of occupants during that period, the rent for each term or number of occupants for which it was regularly offered during such period.

(b) For a room neither rented nor regularly offered for rent during the thirty days ending on July 1, 1941, the highest rent for each term or number of occupants for which the room was rented during the thirty days commencing when it was first offered for rent after July 1, 1941; or, if the room was not rented or was not rented for a particular term or number of occupants during that period, the rent for each term or number of occupants for which it was regularly offered during such period.

(c) For a room rented for a particular term or number of occupants for which no maximum rent is established under paragraphs (a) or (b) of this section the first rent for the room after July 1, 1941, for that term and number of occupants, but not more than the maximum rent for similar rooms for the same term and number of occupants in the same hotel or rooming house.

(d) For a room constructed by the United States or any agency thereof, or by a State of the United States or any of its political subdivisions, or any agency of the State or any of its political subdivisions, and owned by any of the foregoing, the rent generally prevailing in the Defense-Rental Area for comparable rooms on July 1, 1941, as determined by the owner of such rooms: *Provided, however,* That any corporation formed under the laws of a State shall not be considered an agency of the United States within the meaning of this paragraph. The Administrator may order a decrease in the maximum rent as provided in § 1388.735 (c) (1).

(e) For a room with which meals were provided during the thirty-day period determining the maximum rent without separate charge therefor, the rent apportioned by the landlord from the total charge for the room and meals. The landlord's apportionment shall be fair and reasonable and shall be reported in the registration statement for such room. The Administrator at any time on his own initiative or on application of the tenant may by order decrease the maximum rent established by such apportionment, if he finds that the apportionment was unfair or unreasonable.

Every landlord who provides meals with accommodations shall make separate charges for the two. No landlord shall require the taking of meals as a condition of renting any room unless the room was rented or offered for rent on that basis on June 15, 1942.

(f) For a room rented to either Army or Navy personnel, including civilian employees of the War and Navy Departments, for which the rent is fixed by the national rent schedule of the War or Navy Department, the rents established on the effective date of this Maximum Rent Regulation No. 59A by such rent schedule. The Administrator may order an increase in such rents, if he finds that such increase is not inconsistent with the purposes of the Act or this Maximum Rent Regulation.

§ 1388.735 *Adjustments and other determinations.* In the circumstances enumerated in this section, the Administrator may issue an order changing the maximum rents otherwise allowable or the minimum services required. Except in cases under paragraphs (a) (7) and (c) (4) of this section, every adjustment of a maximum rent shall be on the basis of the rent which the Administrator finds was generally prevailing in the Defense-Rental Area for comparable rooms on July 1, 1941: *Provided, however,* That no maximum rent shall be increased because of a major capital improvement or an increase in services,

furniture, furnishings or equipment, by more than the amount which the Administrator finds would have been on July 1, 1941, the difference in the rental value of the accommodations by reason of such improvement or increase: *And provided, further,* That no adjustment shall be ordered because of a major capital improvement, an increase or decrease in services, furniture, furnishings or equipment, or a deterioration, where it appears that the rent during the thirty-day period determining the maximum rent was fixed in contemplation of and so as to reflect such change. In cases involving construction due consideration shall be given to increased costs of construction, if any, since July 1, 1941. In cases under paragraphs (a) (7) and (c) (4) of this section the adjustment shall be on the basis of the rents which the Administrator finds were generally prevailing in the Defense-Rental Area for comparable rooms during the year ending on July 1, 1941.

(a) Any landlord may file a petition for adjustment to increase the maximum rent otherwise allowable, only on the grounds that:

(1) There has been, since the thirty-day period or the order determining the maximum rent for the room, a substantial change in the room by a major capital improvement as distinguished from ordinary repair, replacement and maintenance.

(2) There was, on or prior to July 1, 1941, a substantial change in the room by a major capital improvement as distinguished from ordinary repair, replacement and maintenance, and the rent during the thirty-day period ending on July 1, 1941, was fixed by a lease or other rental agreement which was in force at the time of such change.

(3) There has been a substantial increase in the services, furniture, furnishings or equipment provided with the room since the thirty-day period or the order determining its maximum rent.

(4) The rent during the thirty-day period determining the maximum rent was materially affected by the blood, personal or other special relationship between the landlord and the tenant, or by an allowance or discount to a tenant of a class of persons to whom the landlord regularly offered such an allowance or discount, and as a result was substantially lower than the rent generally prevailing in the Defense-Rental Area for comparable rooms on July 1, 1941.

(5) There was in force on July 1, 1941, a written lease, for a term commencing on or prior to July 1, 1940, requiring a rent substantially lower than the rent generally prevailing in the Defense-Rental Area for comparable rooms on July 1, 1941.

(6) The rent during the thirty-day period determining the maximum rent was established by a lease or other rental agreement which provided for a substantially higher rent at other periods during the term of such lease or agreement.

(7) The rent during the thirty-day period determining the maximum rent for the room was substantially lower than at other times of year by reason of sea-

sonal demand for such room. In such cases the Administrator's order may if he deems it advisable provide for different maximum rents for different periods of the calendar year.

(b) (1) If, on the effective date of this Maximum Rent Regulation No. 59A, the services provided for a room are less than the minimum services required by § 1388.733, the landlord shall either restore and maintain such minimum services or, within 30 days after such effective date, file a petition requesting approval of the decreased services. If, on such effective date, the furniture, furnishings or equipment provided with a room are less than the minimum required by § 1388.733, the landlord shall, within 30 days after such date, file a written report showing the decrease in furniture, furnishings or equipment.

(2) Except as above provided, the landlord shall, until the room becomes vacant, maintain the minimum services, furniture, furnishings and equipment unless and until he has filed a petition to decrease the services, furniture, furnishings or equipment and on order permitting a decrease has been entered thereon; however, if it is impossible to provide the minimum services, furniture, furnishings or equipment he shall file a petition within 10 days after the change occurs. When the room becomes vacant the landlord may, on renting to a new tenant, decrease the services, furniture, furnishings or equipment below the minimum; within 10 days after so renting the landlord shall file a written report showing such decrease.

(3) The order on any petition under this paragraph may require an appropriate adjustment in the maximum rent; and any maximum rent for which a report is required by this paragraph may be decreased in accordance with the provisions of § 1388.735 (c) (3). If the landlord fails to file the petition or report required by this paragraph within the time specified, or decreases the services, furniture, furnishings or equipment without an order authorizing such decrease where such order is required, the rent received by the landlord for any rental period commencing on or after such decrease or the effective date of this Maximum Rent Regulation, whichever is the later, shall be received subject to refund to the tenant of any amount in excess of the maximum rent which may later be fixed by any order decreasing the maximum rent on account of such decrease in services, furniture, furnishings or equipment. In such case, any order decreasing the maximum rent shall be effective to decrease such rent from the beginning of the first rental period after the decrease in services, furniture, furnishings or equipment or after the effective date of this Maximum Rent Regulation, whichever is the later. The foregoing provisions and any refund thereunder do not affect any civil or criminal liability provided by the Act for failure to comply with any requirement of this paragraph.

(c) The Administrator at any time, on his own initiative or on application of the tenant, may order a decrease of the

maximum rent otherwise allowable, only on the grounds that:

(1) The maximum rent for the room is higher than the rent generally prevailing in the Defense-Rental Area for comparable rooms on July 1, 1941.

(2) There has been a substantial deterioration of the room other than ordinary wear and tear since the date or order determining its maximum rent.

(3) There has been a decrease in the minimum services, furniture, furnishings or equipment required by § 1388.733 since the date or order determining the maximum rent.

(4) The rent on the date determining the maximum rent for the room was substantially higher than at other times of year by reason of seasonal demand for such room. In such cases the Administrator's order may if he deems it advisable provide for different maximum rents for different periods of the calendar year.

(d) If the rent on the date determining the maximum rent, or any other fact necessary to the determination of the maximum rent, is in dispute between the landlord and the tenant, or is in doubt, or is not known, the Administrator on petition of the landlord filed within 30 days after the effective date of this Maximum Rent Regulation, or at any time on his own initiative, may enter an order fixing the maximum rent by determining such fact; or if the Administrator is unable to ascertain such fact he shall enter the order on the basis of the rent which he finds was generally prevailing in the Defense-Rental Area for comparable rooms on July 1, 1941.

§ 1388.736 *Restrictions on removal of tenant.* (a) So long as the tenant continues to pay the rent to which the landlord is entitled, no tenant of a room within a hotel or rooming house shall be removed from such room, by action to evict or to recover possession, by exclusion from possession, or otherwise, nor shall any person attempt such removal or exclusion from possession, notwithstanding that such tenant has no lease or that his lease or other rental agreement has expired or otherwise terminated unless:

(1) The tenant, who had a written lease or other written rental agreement, has refused upon demand of the landlord to execute a written extension or renewal thereof for a further term of like duration but not in excess of one year but otherwise on the same terms and conditions as the previous lease or agreement except insofar as such terms and conditions are inconsistent with this Maximum Rent Regulation No. 59A; or

(2) The tenant has unreasonably refused the landlord access to the room for the purpose of inspection or of showing the room to a prospective purchaser, mortgagee or prospective mortgagee, or other person having a legitimate interest therein: *Provided, however,* That such refusal shall not be ground for removal or eviction if such inspection or showing of the room is contrary to the provisions of the tenant's lease or other rental agreement; or

(3) The tenant (i) has violated a substantial obligation of his tenancy, other than an obligation to pay rent, and has continued, or failed to cure such violation after written notice by the landlord that the violation cease, or (ii) is committing or permitting a nuisance or is using or permitting a use of the room for an immoral or illegal purpose; or

(4) The landlord seeks in good faith to recover possession for the immediate purpose of demolishing the room or of substantially altering or remodeling it in a manner which cannot practicably be done with the tenant in occupancy and the plans for such alteration or remodeling have been approved by the proper authorities, if such approval is required by local laws; or

(5) The landlord seeks in good faith not to offer the room for rent. If a tenant has been removed or evicted from a room under this paragraph (a) (5), the landlord shall file a written report on a form provided therefor before renting the room during a period of six months after such removal or eviction.

(b) No tenant shall be removed or evicted on grounds other than those stated above unless, on petition of the landlord, the Administrator certifies that the landlord may pursue his remedies in accordance with the requirements of the local law. The Administrator shall so certify if the landlord establishes that removals or evictions of the character proposed are not inconsistent with the purposes of the Act or this Maximum Rent Regulation and would not be likely to result in the circumvention or evasion thereof.

(c) At the time of commencing any action to remove or evict a tenant (except an action based on non-payment of a rent not in excess of the maximum rent) the landlord shall give written notice thereof to the Area Rent Office stating the title and number of the case, the court in which it is filed, the name and address of the tenant and the grounds on which eviction is sought.

(d) The provisions of this section do not apply to:

(1) A subtenant or other person who occupied under a rental agreement with the tenant where removal or eviction of the subtenant or other such occupant is sought by the landlord of the tenant, unless under the local law there is a tenancy relationship between the landlord and the subtenant or other such occupant; or

(2) A tenant occupying a room within a hotel on a daily or weekly basis; or a tenant occupying on a daily basis a room within a rooming house which has heretofore usually been rented on a daily basis.

(3) Rooms rented to either Army or Navy personnel, including civilian employees of the War and Navy Departments, for which the rent is fixed by the national rent schedule of the War or Navy Department.

No provision of this section shall be construed to authorize the removal of a tenant unless such removal is authorized under the local law.

§ 1388.737 *Registration and records.* (a) Within 45 days after the ef-

fective date of this Maximum Rent Regulation No. 59A every landlord of a room rented or offered for rent shall file a written statement on the form provided therefor, containing such information as the Administrator shall require, to be known as a registration statement. Any maximum rent established after the effective date of this Maximum Rent Regulation under paragraphs (b) or (c) of § 1388.734 shall be reported either on the first registration statement or on a statement filed within 5 days after such rent is established.

(b) Within 45 days after the effective date of this Maximum Rent Regulation, every landlord shall post and thereafter keep posted conspicuously in each room rented or offered for rent a card or sign plainly stating the maximum rent or rents for all terms of occupancy and for all numbers of occupants for which the room is rented or offered for rent. Where the taking of meals by the tenant or prospective tenant is a condition of renting such room, the card or sign shall so state. Should the maximum rent or rents for the room be changed by order of the Administrator the landlord shall alter the card or sign so that it states the changed rent or rents.

The foregoing provisions of this paragraph shall not apply to rooms under § 1388.734 (d). The owner of such rooms shall post a copy of the registration statement in a place where it will be available for inspection by the tenants of such rooms.

(c) No payment of rent need be made unless the landlord tenders a receipt for the amount to be paid.

(d) The provisions of this section shall not apply to rooms rented to either Army or Navy personnel, including civilian employees of the War and Navy Departments, for which the rent is fixed by the national rent schedule of the War or Navy Department.

(e) Every landlord of a room rented or offered for rent shall preserve, and make available for examination by the Administrator, all his existing records showing or relating to (1) the rent for each term and number of occupants for which such room was rented or regularly offered for rent during the thirty-day period determining the maximum rent for such room and (2) the rent on any date determining a maximum rent for such room for a particular term and number of occupants under § 1388.734 (c).

Every landlord of an establishment containing more than 20 rooms rented or offered for rent shall keep, preserve, and make available for examination by the Administrator, records showing the rents received for each room, the particular term and number of occupants for which such rents were charged, and the name and permanent address of each occupant; every other landlord shall keep, preserve, and make available for examination by the Administrator, records of the same kind as he has customarily kept relating to the rents received for rooms.

§ 1388.738 *Inspection.* Any person who rents or offers for rent or acts as a

broker or agent for the rental of a room and any tenant shall permit such inspection of the room by the Administrator as he may from time to time require.

§ 1388.739 *Evasion.* The maximum rents and other requirements provided in this Maximum Rent Regulation No. 59A shall not be evaded, either directly or indirectly in connection with the renting or leasing or the transfer of a lease of a room, by requiring the tenant to pay or obligate himself for membership or other fees, or by modification of the practices relating to payment of commissions or other charges, or by modification of the services furnished with the room, or otherwise.

§ 1388.740 *Enforcement.* Persons violating any provision of this Maximum Rent Regulation No. 59A are subject to criminal penalties, civil enforcement actions and suits for treble damages as provided for by the Act.

§ 1388.741 *Procedure.* All registration statements, reports and notices provided for by this Maximum Rent Regulation No. 59A shall be filed with the Area Rent Office. All landlord's petitions and tenant's applications shall be filed with such office in accordance with Procedural Regulation No. 3 (§§ 1300.201 to 1300.247, inclusive).

§ 1388.742 *Petitions for amendment.* Persons seeking any amendment of general applicability to any provision of this Maximum Rent Regulation No. 59A may file petitions therefor in accordance with Procedural Regulation No. 3 (§§ 1300.201 to 1300.247, inclusive).

§ 1388.743 *Definitions.* (a) When used in this Maximum Rent Regulation No. 59A:

(1) The term "Act" means the Emergency Price Control Act of 1942.

(2) The term "Administrator" means the Price Administrator of the Office of Price Administration, or the Rent Director or such other person or persons as the Administrator may appoint or designate to carry out any of the duties delegated to him by the Act.

(3) The term "Rent Director" means the person designated by the Administrator as director of the Defense-Rental Area or such person or persons as may be designated to carry out any of the duties delegated to the Rent Director by the Administrator.

(4) The "Area Rent Office" means the office of the Rent Director in the Defense-Rental Area.

(5) The term "person" includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of any of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing.

(6) The term "housing accommodations" means any building, structure, or part thereof, or land appurtenant thereto, or any other real or personal property rented or offered for rent for living or dwelling purposes (including houses, apartments, hotels, rooming or

boarding house accommodations, and other properties used for living or dwelling purposes), together with all privileges, services, furnishings, furniture, equipment, facilities and improvements connected with the use or occupancy of such property.

(7) The term "room" means a room or group of rooms rented or offered for rent as a unit in a hotel or rooming house. The term includes ground rented as space for a trailer.

(8) The term "services" includes repairs, decorating and maintenance, the furnishing of light, heat, hot and cold water, telephone, elevator service, window shades, and storage, kitchen, bath, and laundry facilities and privileges, maid service, linen service, janitor service, the removal of refuse and any other privilege or facility connected with the use or occupancy of a room.

(9) The term "landlord" includes an owner, lessor, sublessor, assignee or other person receiving or entitled to receive rent for the use or occupancy of any room, or an agent of any of the foregoing.

(10) The term "tenant" includes a subtenant, lessee, sublessee, or other person entitled to the possession or to the use or occupancy of any room.

(11) The term "rent" means the consideration, including any bonus, benefit, or gratuity demanded or received for the use or occupancy of a room or for the transfer of a lease of such room.

(12) The term "term of occupancy" means occupancy on a daily, weekly, or monthly basis.

(13) The term "hotel" means any establishment generally recognized as such in its community, containing more than 50 rooms and used predominantly for transient occupancy.

(14) The term "rooming house" means, in addition to its customary usage, a building or portion of a building other than a hotel in which a furnished room or rooms not constituting an apartment are rented on a short time basis of daily, weekly, or monthly occupancy to more than two paying tenants not members of the landlord's immediate family. The term includes boarding houses, dormitories, auto camps, trailers, residence clubs, tourist homes or cabins, and all other establishments of a similar nature.

(b) Unless the context otherwise requires, the definitions set forth in section 302 of the Emergency Price Control Act of 1942 shall apply to other terms used in this Maximum Rent Regulation.

§ 1388.744 *Effective date of the regulation.* This Maximum Rent Regulation No. 59A (§§ 1388.731 to 1388.744, inclusive) shall become effective December 1, 1942.

Issued this 1st day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-12718; Filed, December 1, 1942; 1:29 p. m.]

PART 1388—DEFENSE-RENTAL AREAS

[Correction to Supp. Amendment 4¹ to Maximum Rent Regulations and to Correction of Supp. Amendment 8² to Maximum Rent Regulations]

HOUSING ACCOMMODATIONS OTHER THAN HOTELS AND ROOMING HOUSES

Under the authority vested in the Administrator by the Emergency Price Control Act of 1942, the following corrections are issued.

The reference to "§ 1388.3507, No. 35" in footnote 2 in Supplementary Amendment 4 to Maximum Rent Regulations is replaced by a reference to "§ 1388.3057, No. 35."

The reference to "§ 1388.3506, No. 35" in footnote 2 in the Correction to Supplementary Amendment 8 is replaced by a reference to "§ 1388.3056, No. 35."

Issued and effective this 1st day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-12721; Filed, December 1, 1942; 1:30 p. m.]

PART 1389—APPAREL

[MPR 153,³ as Amended, Amendment 5]

WOMEN'S, GIRLS' AND CHILDREN'S OUTERWEAR GARMENTS

A statement of the considerations involved in the issuance of this amendment is issued simultaneously herewith and filed with the Division of the Federal Register.*

Section 1389.12 is amended, as set forth below:

§ 1389.12 *Termination date.* This Maximum Price Regulation No. 153 as amended, shall not be applicable to any new lines of women's, girls' and children's outerwear garments manufactured for the purpose of ultimate sale at retail during the spring 1943 season. Without limiting the generality of the foregoing, this Maximum Price Regulation No. 153 as amended, shall become inoperative:

(a) On February 1, 1943, for sales at retail and sales at wholesale; and

(b) On December 15, 1942 for sales other than at wholesale or retail, except for sales and deliveries of new lines of women's, girls' and children's outerwear garments in stock prior to December 12, 1942, or recuts and reorders of new lines of women's, girls' and children's outerwear garments which were in stock or in process of manufacture prior to December 12, 1942.

§ 1389.11 *Effective dates of amendments.* * * *

*Copies may be obtained from the Office of Price Administration.

¹ 7 F.R. 7534.

² 7 F.R. 8506.

³ 7 F.R. 4381, 5869, 7010, 7535, 8878, 8946.

(g) Amendment No. 5 (§ 1389.12) to Maximum Price Regulation No. 153 as amended, shall become effective December 1, 1942.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 1st day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-12710; Filed, December 1, 1942; 1:27 p. m.]

PART 1394—RATIONING OF FUEL AND FUEL PRODUCTS

[Ration Order 11,¹ Amendment 12]

FUEL OIL RATIONING REGULATIONS

A rationale for this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

In § 1394.5603, the phrase "December 1, 1942" is amended to read "December 10, 1942"; in paragraph (b) of § 1394.5604, the phrase "forty (40) days" is amended to read "fifty (50) days"; in paragraph (f) of § 1394.5653, the phrase "November 30, 1942" is amended to read "December 9, 1942"; in paragraph (b) of § 1394.5707, the phrase "November 30, 1942" is amended to read "December 9, 1942" and in subparagraph (3) of that paragraph, the phrase "December 8, 1942" is amended to read "December 20, 1942"; and a new paragraph (l) is added to § 1394.5902; as set forth below:

Effective Date

§ 1394.5902 *Effective dates of amendments and corrections.* * * *

(l) Amendment No. 12 (§§ 1394.5603, 1394.5604, 1394.5653 and 1394.5707) shall become effective November 30, 1942.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421 and 507, 77th Cong.; W.P.B. Dir. No. 1, 7 F.R. 562, Supp. Dir. No. 1-O, 7 F.R. 8418; E.O. 9125, 7 F.R. 2719)

Issued this 30th day of November 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-12712; Filed, December 1, 1942; 1:27 p. m.]

PART 1388—DEFENSE-RENTAL AREAS

[Designation and Rent Declaration 25,² Amendment 9]

DESIGNATION OF 262 DEFENSE-RENTAL AREAS AND RENT DECLARATION RELATING TO SUCH AREAS

The title and item (31) listed in the table in § 1388.1201 of Designation and

¹ 7 F.R. 8480, 8708, 8809, 8897, 9316, 9396, 9492, 9427, 9430, 9621, 9784.

² 7 F.R. 3195, 3892, 4179, 5812, 6389, 7245, 8356, 8507, 9954.

Rent Declaration No. 25 are amended and item (263) is added to the table in the said section to read as follows:

Designation and Rent Declaration No. 25—Designation of (263) Defense-Rental Areas and Rent Declaration Relating to Such Areas.

§ 1388.1201 *Designation.* * * *

Name of defense-rental area ¹	In State or States of—	Defense-rental area consists of:
(31) Santa Barbara.	California.	Judicial Townships Nos. 1, 2, and 3 in the County of Santa Barbara.
(263) Santa Maria.	California.	Judicial Townships Nos. 4, 5, 6, 7, 9 and 10 in the County of Santa Barbara.

¹The words "Defense-Rental Area" shall follow the name listed in the table in each case to constitute the full name of a defense-rental area, e. g., "Dothan-Ozark Defense-Rental Area," "Gadsden Defense-Rental Area."

This amendment No. 9 (§ 1388.1201) shall become effective December 1, 1942. (Pub. Law 421, 77th Cong.)

Issued this 1st day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-12717; Filed, December 1, 1942; 1:28 p. m.]

Chapter XIII—Office of Petroleum
Coordinator for War

[Recommendation No. 58]

PART 1504—PROCESSING AND REFINING
MANUFACTURE OF LUBRICATING GREASES

To all Manufacturers of Lubricating Greases: The present shortage of glycerine referred to in General Preference Order No. M-58,¹ as amended, and Conservation Order M-193,² of the War Production Board can be remedied in part by the substitution of fatty acids for fatty oils in the manufacture of certain lubricating greases.

Therefore, in order to bring about that action required by the President's letter of May 28, 1941 defining the objectives and duties of the Office of Petroleum Coordinator for War and pursuant thereto, I do hereby recommend that immediately and until further notice:

- Sec.
1504.91 Definitions.
1504.92 Limitation on use of fatty oils.
1504.93 Exemptions.
1504.94 Reports.
1504.95 War Production Board regulations and orders.
1504.96 Exceptions.

AUTHORITY: §§ 1504.91 to 1504.96 inclusive, issued under the authority contained in the President's letter of May 28, 1941, to the Secretary of the Interior (6 F.R. 2760)

¹ 7 F.R. 2462, 6995.

² 7 F.R. 9129.

§ 1504.91 *Definitions.* For the purposes of §§ 1504.91 to 1504.96 inclusive, of this chapter, the following terms shall have the following meanings:

(a) "Fatty oils" means all fats and oils (regardless of acid content) of animal or vegetable origin, except essential oils, from which no glycerine has been recovered.

(b) "Fatty acids" means all acids obtained by the hydrolysis or saponification of fatty oils or of waxes of animal or vegetable origin.

(c) "Manufacturer" means any person who processes, reprocesses or in any manner alters (including compounding and blending) petroleum or petroleum products to produce lubricating greases and who produced not less than 1000 short tons of such lubricating greases during the year beginning July 1, 1941 and ending June 30, 1942.

(d) "Lubricating greases" means all lubricants manufactured from petroleum products and a soap, organic salt or ester of any fatty oil or fatty acid. This term shall not be construed to mean any compounded mineral oil which includes, among others, marine oils and soluble and non-soluble cutting oils and compounds.

§ 1504.92 *Limitation on use of fatty oils.* Beginning with the calendar quarter-year from January to March, inclusive, 1943 and subject to the exemptions in § 1504.93 of this chapter, no manufacturer shall manufacture lubricating greases not subject to the provisions of said § 1504.93 which in the aggregate in any calendar quarter-year contain fatty oils in excess of 50% by weight of the total amount of fatty oils and fatty acids used in such manufacture in such calendar quarter-year.

Despite the maximum limitation set forth in this § 1504.92 and the exemptions set forth in § 1504.93 of this chapter, no manufacturer shall use more fatty oils than he requires for the manufacture of satisfactory lubricating greases.

§ 1504.93 *Exemptions.* The provisions of § 1504.92 of this chapter shall not apply to the manufacture of long service anti-friction bearing lubricating greases or to lubricating greases for high temperature or railroad service or to the manufacture of those amounts of other lubricating greases which are purchased by the United States Army, Navy or Office of Lend-Lease Administration or which are exported outside the territory comprising the continental United States, Canada and Alaska.

§ 1504.94 *Reports.* On the 15th day of the month immediately following the end of each calendar quarter-year, each manufacturer shall file a report for such calendar quarter-year, in the form attached hereto as Exhibit A,¹ with the Director of Refining, Office of Petroleum Coordinator for War, New Interior Building, Washington, D. C. The first such report shall be for the calendar quarter-year January to March, inclusive, 1943 and shall be due on April 15,

¹ Filed as part of the original document.

1943 and further reports shall be due thereafter as prescribed in this § 1504.94.

§ 1504.95 *War Production Board regulations and orders.* Nothing contained in this Recommendation shall be construed to affect or limit, in any wise, any provision of any regulation, order or direction issued by the War Production Board.

§ 1504.96 *Exceptions.* Any manufacturer affected by this Recommendation who can show that compliance therewith would work an exceptional and unreasonable hardship on him may apply in writing to the Director of Refining, Office of Petroleum Coordinator for War, for an exception, stating in full the facts upon which the application is based and the extent to which the exception is requested.

RALPH K. DAVIES,
Deputy Petroleum
Coordinator for War.

NOVEMBER 26, 1942.

[F. R. Doc. 42-12758; Filed, December 2, 1942; 11:32 a. m.]

TITLE 35—PANAMA CANAL

Chapter I—Canal Zone Regulations

PART 4—OPERATION AND NAVIGATION OF

PANAMA CANAL AND ADJACENT WATERS
AMENDMENTS RELATING TO DOCUMENTS REQUIRED OF ARRIVING VESSELS

1. Section 4.20, as amended, of Title 35, Code of Federal Regulations, relating to papers required to be delivered to the boarding party by an arriving vessel, is further amended by adding the following two Notes numbered 2 and 3, respectively, to follow the Note, which is hereby numbered 1, at the end of the regulation:

§ 4.20 *Papers required by boarding party, list of.* * * *

Note 2. *Crew list; copy for American consular officer.* Under the regulations governing the control of persons entering and leaving the United States issued by the Secretary of State on November 19, 1941, pursuant to authority contained in the Act of May 22, 1918 (40 Stat. 559) as amended by the Act of June 21, 1941 (55 Stat. 252) and Proclamation No. 2523 issued by the President of the United States on November 14, 1941, no alien may enter the Canal Zone unless he is in possession of a valid unexpired permit to enter or is exempted under such regulations from presenting a "permit to enter," which term includes an immigration visa, a reentry permit, a passport visa, a transit certificate, a border crossing identification card, a crew list visa, or any other document which may be required under authority of law for entry into the United States. When it is contemplated that entrance of alien seamen into the Canal Zone is to be authorized by a crew list visa, an additional copy of the crew list should be prepared for retention by the consular official by whom the crew list is visaed.

Note 3. *Crew list to include "Z" numbers of seamen.* For purposes of additional identification of crew members, all copies of the crew list required by Regulations 12.1 (§ 4.20) and 12.4 (§ 4.20c) should include the "Z" number of each seaman to whom a cer-

¹ 7 F.R. 729.

certificate of identification bearing a "Z" number has been issued by the United States Department of Commerce.

(Rules 9 and 12, E.O. 4314, September 25, 1925 (§§ 4.11 and 4.19 of this chapter)) [Reg. 12.1 (§ 4.20), Governor's Regulations, August 1, 1931, as amended September 9, 1939, December 1, 1939, January 27, 1942, November 20, 1942]

2. Section 4.20c of Title 35, Code of Federal Regulations, is amended by adding the following Note at the end of the regulation:

§ 4.20c *Advance passenger and crew lists by air mail.* * * *

NOTE. *Crew list to include "Z" numbers of seamen.* For purposes of additional identification of crew members, all copies of the crew list required by Regulations 12.1 (§ 4.20) and 12.4 (§ 4.20c) should include the "Z" number of each seaman to whom a certificate of identification bearing a "Z" number has been issued by the United States Department of Commerce.

(Rules 9 and 12, E.O. 4314, September 25, 1925 (§§ 4.11 and 4.19 of this chapter)) [Reg. 12.4 (§ 4.20c), Governor's Regulations, August 1, 1931, as added January 27, 1942, November 20, 1942]

GLEN E. EDGERTON,
Governor.

[F. R. Doc. 42-12745; Filed, December 2, 1942; 9:54 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter II—Office of Defense Transportation

[General Order ODT 18, Revised, Amendment 1]

PART 500—CONSERVATION OF RAIL EQUIPMENT

SUBPART C—CARLOAD FREIGHT TRAFFIC

Pursuant to Executive Order No. 8989, § 500.24 of General Order ODT 18, Revised,¹ is hereby amended to read as follows:

§ 500.24 *Consignor's certificate.* There shall be endorsed on the shipping instructions issued with respect to any carload freight other than carload freight which is loaded in compliance with the provisions of paragraphs (a), (b), or (c) of § 500.21 of this subpart, or any special direction issued by the Director, Division of Railway Transport, Office of Defense Transportation, under the provisions of § 500.22 of this subpart, or which is covered by the provisions of paragraphs (a), (f) (g), (h), (i), or (j) of § 500.23 of this subpart, a certificate specifying the exemption applicable to such freight, the number of any special permit issued by the chief operating officer or division superintendent of a rail carrier, or the number of any special or general permit issued by the Office of Defense Transportation, authorizing the transportation of such freight in a manner other than that required hereunder. Such certificate

shall be in the form prescribed by the Director, Division of Railway Transport, Office of Defense Transportation, and shall be executed by the consignor. Where freight of more than one consignor is loaded in one freight car at point of origin, the consignor who completes the loading of the car shall execute the certificate. Any agent other than a rail carrier may execute the certificate for the consignor. The failure of a consignor or his agent to endorse on the shipping instructions a certificate specifying the exemption, general permit, or special permit number applicable to the freight covered by such shipping instructions, shall constitute a representation by the consignor to the rail carrier that the car containing such freight has been loaded in compliance with the provisions of paragraphs (a), (b), or (c) of § 500.21 of this subpart, or in compliance with the provisions of a special direction issued by the Director, Division of Railway Transport, Office of Defense Transportation, or that the freight is covered by an exemption contained in paragraphs (a), (f), (g), (h), (i), or (j) of § 500.23 of this subpart. (E.O. 8989, 6 F.R. 6725)

This amendment shall become effective November 28, 1942.

Issued at Washington, D. C., this 28th day of November 1942.

JOSEPH B. EASTMAN,
Director of Defense Transportation.

[F. R. Doc. 42-12724; Filed, December 1, 1942; 12:57 p. m.]

[General Order ODT 26]

PART 501—CONSERVATION OF MOTOR EQUIPMENT

SUBPART P—RENTAL CARS

Pursuant to Executive Order No. 8989 and Executive Order No. 9156, and in order to conserve and providently utilize vital transportation facilities, equipment, material, and supplies, including rubber; and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered, That:*

- Sec.
501.145 Definitions.
501.146 Restrictions on new or additional operations.
501.147 Special and general permits.
501.148 Records and reports.
501.149 Communications.
501.150 Effective date.

AUTHORITY: §§ 501.145 to 501.150, inclusive, Issued under E.O. 8989, 9156; 6 F.R. 6725, 7 F.R. 3349.

§ 501.145 *Definitions.* As used in this order (§§ 501.145-501.150) the term:

(a) "Person" means an individual, partnership, corporation, association, joint-stock company, business trust, or other organized group of persons, and includes any agency of the United States or of any territory, or possession thereof, the District of Columbia, a State or any agency or political subdivision thereof, or any trustee, receiver, assignee, or personal representative.

(b) "Rental car" means any rubber-tired vehicle, propelled or drawn by mechanical power, built (or rebuilt) primarily for the purpose of transporting persons and having a seating capacity of less than ten (10) passengers, leased or rented, or held for leasing or renting, with or without driver or operator.

§ 501.146 *Restrictions on new or additional operations.* No person shall:

(a) Engage in the business of renting or leasing rental cars unless on the effective date of this order (1) there was in force with respect to such business a license, permit, or other grant of authority issued by competent governmental authority, authorizing such person, or his predecessor in interest, to engage in such business; or (2) such person, or his predecessor in interest, was bona fide engaged in the business of renting or leasing rental cars in a community where no such license, permit, or other grant of authority was required;

(b) Have under lease or rental to other persons, or have available for lease or rental to other persons, in any municipality, other governmental subdivision or community, a greater number of rental cars than such person, or his predecessor in interest, had regularly under lease or rental and available for lease or rental in such municipality or governmental subdivision on the effective date of this order.

§ 501.147 *Special and general permits.* The provisions of this order shall be subject to any special or general permit issued by the Office of Defense Transportation to meet specific needs or exceptional circumstances, or to prevent undue public hardships.

§ 501.148 *Records and reports.* (a) Any person engaged in renting or leasing rental cars to other persons shall keep a daily record in respect of each rental car leased or rented to such persons showing (1) the total number of miles and hours used in rental car service and (2) in respect of each separate rental or lease (i) the name and address of the person to whom such car is leased or rented, (ii) the purpose for which such car was leased or rented, and (iii) the actual miles operated and the elapsed time of such operation.

(b) Any person engaged in leasing or renting cars to other persons shall retain in his files all original car rental leases or car rental agreements and shall keep such other records and make such reports as may be required and in the manner and form prescribed by the Office of Defense Transportation. All such leases, rental agreements, and records shall be available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

§ 501.149 *Communications.* Communications concerning this order should be addressed to the Division of Local Transport, Office of Defense Transportation, Washington, D. C., and should refer to General Order ODT 26.

§ 501.150 *Effective date.* This General Order ODT 26 shall become effective December 1, 1942.

¹ 7 F.R. 8337.

Issued at Washington, D. C., this 30th day of November 1942.

JOSEPH B. EASTMAN,
Director of Defense Transportation.

[F. R. Doc. 42-12760; Filed, December 2, 1942;
11:41 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

DISTRICT BOARD 14

[Docket No. A-1680]

MEMORANDUM OPINION AND ORDER OF THE DIRECTOR

In the matter of the petition of Bituminous Coal Producers Board for District No. 14 for the establishment of a price exception for mines located in Production Group 1 of District No. 14 on Size Group No. 16 coals for movement to the Kansas City Power and Light Company, Kansas City, Missouri, pursuant to section 4 II (d) of the act.

This matter was initiated by a petition duly filed with the Bituminous Coal Division (the "Division") on October 6, 1942, by the Bituminous Coal Producers Board for District No. 14 ("District Board 14"), pursuant to section 4 II (d) of the Bituminous Coal Act of 1937 (the "Act"), seeking temporary relief in the form of a price exception permitting the sales, until April 1, 1943, of Size Group 16 coals produced by mines in Production Group 1 of District 14 to Kansas City Power and Light Company ("Kansas Power"), Kansas City, Missouri, at not less than \$1.20 per net ton f. o. b. the mine.

Pursuant to notice given by telegram to District Boards 14 and 15 and other interested parties, and by letter to the Bituminous Coal Consumers' Counsel, an informal conference in this matter was held on October 16 and 17, 1942, presided over by a designated chairman, at Washington, D. C. Interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise participate in the conference. District Board 14, certain code members who opposed the relief asked in the petition, and the Bituminous Coal Consumers' Counsel appeared at the conference and participated therein. The transcript of the record made at this conference, including various exhibits, is now before me.

The petition alleges that Size Group 16 coals produced in Production Group No. 1 in District 14, which includes all mines in Pope County and all mines in the "Spadra Field" of Johnson County, Arkansas, have a very limited market which is generally confined to lead, zinc and tin smelters located in the States of Kansas, Oklahoma and Texas. A small amount of these coals are also used in the manufacture of briquettes. Practically all smelters have accumulated large stocks of the coals and, as a result of such accumulations, practically all mines producing in Production Group 1

have been compelled since July 1942 to unload and accumulate Size Group 16 coals on the ground. This accumulation of coals on the premises of these mines is so great and so extensive to the mines that they can no longer afford to operate, unless they can dispose of their Size Group 16 coals. The petition further alleges that the Kansas City Power and Light Company of Kansas City, Missouri, is the only industrial plant within a reasonable distance having facilities for burning these coals, which it is able to do by blending them with Kansas and Missouri high volatile coals. A price of \$1.20 per ton has been tendered by Kansas Power for these coals. It is necessary, the petition asserts, for code member producers in Production Group No. 1 to dispose of the accumulated stock of Size Group 16 coals, as well as all such coals produced, in order to continue mining operations and produce coals used by domestic consumers. Petitioner prays for a temporary order establishing a price exception in the Schedule of Effective Minimum Prices for District No. 14, permitting code members in Production Group 1 to sell Size Group 16 coals to Kansas Power at \$1.20 per ton, such exception to remain in effect until April 1, 1943. Two code members operating in this production group have opposed the granting of the relief asked herein. On the other hand District Board 15 notified the Division by telegram that it had no objections to the granting of the relief prayed.

It appeared at the conference that there are now four code members operating in Production Group 1. Two of these, the Smokeless Coal Company ("Smokeless Coal") and the West Spadra Coal Company ("West Spadra"), asked for a reduction of the prices in Size Group No. 16 screenings, while the other two producers, the Ruby Glow Mining Company ("Ruby Glow") and the Arkansas Coal Company ("Arkansas Coal") were opposed to the reduction sought by the first named. Since July 1942, Smokeless Coal has stored adjacent to its mine approximately 5200 tons of Size Group 16 screenings, and has continued to accumulate such screenings at the rate of 75 to 100 tons per day. West Spadra, as of October 1, 1942, had stored approximately 1500 tons of screenings, and is accumulating the same at the rate of 30 to 40 tons per day. It also appears that these screenings are not in demand for use as fuel in industrial plants,¹ but are quite suitable for use in large quantities in zinc, tin, and lead smelters as a reducing agent or "flux," as an element in the smelting process, not as a fuel.² Until about July 1942, the two producers on whose behalf the petition was filed, as well as the two who oppose the relief asked, seemed to have had no difficulty

in disposing of their screenings. The latter, Ruby Glow and Arkansas, seem to have no difficulty now in the disposal of their coals. They have no Size Group 16 coals accumulated as have Smokeless Coal and West Spadra.³

Kansas Power has in the past used District 15 screenings in large quantities for its fuel needs,⁴ though it uses screenings for only approximately one-half of its fuel requirements. For the other half it uses natural gas. Kansas Power has determined that it could use Production Group No. 1 screenings by blending them with the high volatile coal of District 15, and thus be able to take up all of the accumulated slack coal of Smokeless Coal and West Spadra. Kansas Power, however, refuses to pay more than \$1.20 per ton for these screenings. It maintains that the freight rate from Production Group No. 1 to its plant is high, and that it will pay only such price for this coal as will make its delivered cost equal to the delivered cost of the screenings from District 15.

It was urged by petitioner that unless the minimum price for Size Group 16 screenings is reduced from \$2.30 to \$1.20 per net ton for sale to Kansas Power, Smokeless Coal and West Spadra will not be able to continue to operate their mines, but rather will be forced to abandon them. It was further urged that the large accumulation of screenings are in danger of catching fire from spontaneous combustion which would cause code members great and irreparable losses. Petitioner also sought to justify the reduction requested on the ground that Kansas Power will use the screenings for a different purpose than do the smelters and briquette plants.

On the other hand, the opposing code members insisted that such a reduction in the minimum price for these coals is unjustified and unnecessary; that the petitioning code members have not exhausted other means for disposing of the accumulated screenings; that if the relief asked herein were granted, it would degrade the present market for the other producers in Production Group No. 1, and that it would cause the smelters and briquette plant, (particularly the latter, which is presently paying the minimum price), to ask for a reduction in the price paid by it. The briquette plant, like Kansas Power, is located in Kansas City, Missouri, and is subject to the same freight rate.⁵

This petition raises a crucial question in the application and administration of the Act. The difficulty here sought to be adjusted and relieved is one which was

¹ The two protesting code members produce approximately 80% of all Size Group 16 coal in Production Group No. 1.

² This company consumes approximately 400,000 tons of coal annually.

³ Participant Cobb, President of Arkansas Coal, one of the opposing code members, voiced his objection thus: "Now, if you are going to grant a price of \$1.20 in order to accommodate, or even make possible these two mines to continue in operation, and if the smelters or any one else, by reason of that fact can secure a less minimum price than the present minimum price, then you put our operation out of business entirely."

⁴ The Examiners in their Report in General Docket No. 15, described District 14 coals as "low volatile" and "not well adapted to industrial uses, because of their comparatively high costs and freight rates when compared to competitive fuels." Examiners Report, General Docket No. 15, p. 1010.

⁵ These smelters use natural gas for fuel.

familiar in the industry in the days before the passage of the Act. At that time, price-cutting appeared the only way an individual could meet the competition of other producers. Such price-cutting was followed by similar action on the part of competitors. Thus, in the very attempt to remedy competitive inequalities, economic hardship was spread over an ever-widening area. Such practices, as were noted by the Director in his Findings in General Docket No. 15 created "distress tonnage," and produced what was graphically characterized by Mr. Justice Cardozo as a condition in which free competition had been "degraded into anarchy."

To grant the relief prayed in the petition and reduce the minimum price for Size Groups No. 16 coals in Production Group No. 1 from the present \$2.30 per net ton to \$1.20 per net ton for sales to Kansas Power would sanction an expedient which the Act prohibits—the cutting of prices to sell "distress tonnage." This would not only reduce the actual realization of these particular code members, but would open the door to similar requests by others in similar situations. With respect to the particular reductions requested by the petitioner, it would mean a reduction of almost 50% in minimum price on approximately 40% of the entire output in Production Group 1, at a loss of approximately 75% of the actual average cost per ton of producing coal in this production group.

It has long been the policy and practice of the Division to deny relief under section 4 II (d) of the Act, if the granting of such relief, would disrupt the system of price coordination which was worked out and established with great care. Granting relief of the nature requested in this petition would not only disrupt coordination in the particular production group in District 14, but would seriously disturb price coordination in other production groups of this district and in other districts. Further, it would sanction a gross discrimination in favor of one large consumer. The relief requested is not a solution of petitioners' problems compatible with the purpose of the Act.

It is also significant that in a period of high prices, in what is now a seller's market, petitioners are asking for a reduction of approximately 50% in the established minimum price applicable to a substantial part of their tonnage, even though this would result in a minimum price approximately 75% less than the average cost of production in their production group. Clearly, relief which would not be granted in a depressed market, certainly cannot be justified at a time of steadily increasing demands for coal.

* See dissenting opinion of Mr. Justice Cardozo in *Carter v. Carter Coal Company*, 298 U.S. 238 (1936).

† It was shown at the informal conference that the percentage of Size Group 16 coal in Production Group 1 of the entire output is about 40%. The cost of production per ton of coal in this production group was stated at that conference to be approximately \$4.00 to \$4.25 per ton.

Accordingly, upon consideration of the representations made at the informal conference, I believe that the relief prayed for herein is unwarranted and inconsistent with the policies of the Division and the objectives of the Act. Of course, this opinion is not to be deemed to preclude judgment on a complete record after full hearing in this matter.

Now, therefore, it is ordered, That the temporary relief requested in the petition herein be, and it hereby is, denied.

Dated: December 1, 1942.

[SEAL]

DAN H. WHEELER,
Director.

[F. R. Doc. 42-12755; Filed, December 2, 1942;
11:04 a. m.]

[Docket No. B-274]

EDWARDSVILLE COAL CO., INC.

MEMORANDUM OPINION AND ORDER APPROVING
FINDINGS OF FACT, ETC.

In the matter of The Edwardsville Coal Co., Inc.—Code Member.

Memorandum opinion and order approving and adopting proposed findings of fact, proposed conclusions of law and recommendations of the examiner.

This proceeding was instituted upon a complaint duly filed with the Bituminous Coal Division (the "Division") on June 3, 1942, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937 (the "Act"), by District Board No. 10, alleging that code member, the Edwardsville Coal Co., Inc., operating a mine (Mine Index No. 1041) in Madison County, Illinois, had wilfully violated the Act, the Bituminous Coal Code (the "Code"), and orders, rules and regulations thereunder, and praying that an order be entered either cancelling and revoking the code membership of the Edwardsville Coal Co., Inc., or directing code member to cease and desist from such further violations.

Pursuant to appropriate orders, and after due notice to interested persons, a hearing in this matter was held on July 27, 1942, before Charles S. Mitchell, a duly designated Examiner of the Division, at a hearing room thereof in St. Louis, Missouri, at which interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard, and at which time code member and District Board No. 10 appeared.

The Examiner found that code member, the Edwardsville Coal Co., Inc., operating a mine (Mine Index No. 1041), at Edwardsville, Madison County, Illinois, in District No. 10, had wilfully violated:

(1) Section 4 II (e) of the Act and Part II (e) of the Code by selling to various purchasers, during the period from October 28, 1941, to November 21, 1941, 88.8 tons of $1\frac{1}{4}'' \times \frac{1}{2}''$ nut coal at a price of \$1.05 per net ton f. o. b. the mine, whereas the effective minimum price for such coal was \$1.45 per net ton f. o. b. the mine;

(2) Sections 4 II (e) and (g) of the Act and Parts II (e) and (g) of the Code by selling to the County of Madison of

the State of Illinois, during the period from October 7, 1941 to November 6, 1941, 158.4 tons of $1\frac{1}{4}'' \times \frac{1}{2}''$ nut coal at a price of \$1.45 per net ton f. o. b. the County Jail, Edwardsville, Illinois, whereas the effective minimum price for such coal was \$1.45 per net ton f. o. b. the mine, code member actually having paid 50 cents per net ton for the transportation and delivery for such coal from the mine to the point of delivery to the County;

(3) Section 4 II (e) of the Act, Part II (e) of the Code and Rule 1 of section III of the Marketing Rules and Regulations, by selling to M. J. Dickman, an independent trucker and a person not authorized by the Division to receive discounts on sales of coal, during the period from January 3, 1941, to November 10, 1941, 260.03 tons of $1\frac{1}{4}'' \times \frac{1}{2}''$ nut coal at a price of \$1.05 per net ton f. o. b. the mine less a discount of 25 cents per net ton, whereas the effective minimum price for such coal was \$1.45 per net ton f. o. b. the mine; and

(4) Section 4 II (i) 8 of the Act, Part II (i) 8 of the Code, and Rule 8 of section XIII of the Marketing Rules and Regulations by falsely invoicing and describing $1\frac{1}{4}'' \times \frac{1}{2}''$ coal on sales tickets as $1\frac{1}{4}'' \times \frac{3}{8}''$ coal or as $1\frac{1}{4}'' \times 0$ coal.

The Examiner further found that the amount of tax required to be paid by the code member as a condition to reinstatement to membership in the Code, as provided in section 5 (c) of the Act, is \$286.84.

On September 26, 1942, the Examiner submitted his Proposed Findings of Fact and Proposed Conclusions of Law, and upon the basis thereof, recommended that an order be entered cancelling and revoking the code membership of the Edwardsville Coal Co., Inc., and providing that prior to any restoration of such membership, the Company should pay to the United States a tax in the amount of \$286.84.

An opportunity was afforded parties to file exceptions and supporting briefs. On October 23, 1942, code member filed exceptions to the Examiner's Report.

Exceptions were taken by code member to the Examiner's Report on two grounds. The first exception was addressed to the Report in its entirety on the ground that no service had been made on the duly qualified, elected, and acting President and Secretary of the Edwardsville Coal Co., Inc. There is no basis for this exception. The Examiner's Report was sent by registered mail to L. C. Davis, President of the Edwardsville Coal Co., Inc., who appeared at the above-mentioned hearing; the certificate attesting receipt of said registered mail was signed by Josephine Davis, a member of the household of L. C. Davis, on October 16, 1942. A copy of the Examiner's Report was also sent by registered mail to the Edwardsville Coal Co., Inc., and

† These exceptions were irregularly presented in the form of a letter by D. M. Buckley, attorney for the Edwardsville Coal Co., Inc., rather than in the form prescribed by the Division. I have, nevertheless, ignored this procedural defect and considered the exceptions on the merits.

signed for by Arthur H. Grace on October 17, 1942.

Code member also excepts to the Report on the ground that it was not represented by counsel at the hearing. Code member was duly notified of the hearing and was afforded adequate time to prepare a defense and select an attorney to represent it, had it chosen to do so. Rather, code member was represented only by its president, L. C. Davis. Having failed to avail itself of legal counsel, code member cannot now assert its neglect as a reason to invalidate the Report filed by the Examiner. It is significant that code member neither claims that its right to counsel was abridged, or limited, or that it was in any way prejudiced by its failure to be represented by counsel. Under such circumstances, the exception is baseless; due process of law does not mean that a litigant who fails zealously to protect his interests can, by such failure, obtain the right to duplicated hearings.

The undersigned having determined, after a consideration of the record and code member's exceptions, that the Proposed Findings of Fact, Proposed Conclusions of Law, and Recommendation of the Examiner should be approved and adopted as the Findings of Fact and Conclusions of Law of the undersigned;

Now, therefore, it is ordered, That the exceptions of code member, the Edwardsville Coal Co., Inc., to the Proposed Findings of Fact, Proposed Conclusions of Law and Recommendation of the Examiner, be, and they hereby are, severally overruled;

It is further ordered, That the Proposed Findings of Fact and Proposed Conclusions of Law be, and they hereby are, approved and adopted as the Findings of Fact and Conclusions of Law of the undersigned;

It is further ordered, That the code membership of the Edwardsville Coal Co., Inc., is hereby cancelled and revoked;

It is further ordered, That prior to the reinstatement of the Edwardsville Coal Co., Inc., to membership in the Code, there shall be paid to the United States a tax in the amount of \$286.84 as provided in section 5 (c) of the Act.

Dated: December 1, 1942.

[SEAL] DAN H. WHEELER,
Director.

[F. R. Doc. 42-12756; Filed, December 2, 1942;
11:04 a. m.]

BOARD OF ECONOMIC WARFARE.

TOWER SALES CO., ET AL.

ORDER DISMISSING CHARGES AS TO ONE RESPONDENT AND DENYING LICENSING PRIVILEGES AS TO OTHERS

Pursuant to Part 807 of the Regulations adopted under section 6 of the Act of July 2d, 1940, as amended, the Chief of the Trade Intelligence Division of the Export Control Branch, Office of Exports, has charged the Tower Sales Company, 223 Majestic Bldg., San Antonio, Texas, and Bernard H. Sampson and M.

B. Rafelson of the same address (hereinafter referred to as respondents) with violations of section 80 of Title 80 of the U. S. Code in matters relating to export control and within the jurisdiction of the Board of Economic Warfare. Respondent Bernard H. Sampson filed a written answer to the charges set forth, while respondents Tower Sales Company and M. B. Rafelson presented an oral answer on September 11, 1942, before a Compliance Commissioner duly designated under § 807.1 of the aforesaid regulations.

The Compliance Commissioner has reviewed the record and filed his finding of fact and recommendations in this matter. The following facts have been found:

Bernard H. Sampson until May 26, 1942, was an exporter trading under the name of the Tower Sales Company. On March 7, 1942, the Tower Sales Company issued an invoice to Representaciones Internacionales S. R. L. de C. V. of Mexico City for 220 pounds of caffeine at \$11.50 a pound or a total of \$2,530. On March 28, 1942, Bernard H. Sampson, trading under the name of Tower Sales Company applied for an export license to export 220 pounds of caffeine to Representaciones Internacionales calling for a net value, or selling price, of \$1,320, a clear misrepresentation. An investigation of this license application was undertaken by the Customs Department prior to May 16, 1942.

On May 16, 1942, the Tower Sales Company wired the Board of Economic Warfare asking the cancellation of this license on the ground that it was impossible to secure merchandise at the price stated in the license. B. H. Sampson conveyed his business assets, including the name of Tower Sales Company to M. B. Rafelson by bill of sale dated May 26, 1942, and some time after that date accepted a commission as Lieutenant (j. g.) in the U. S. Navy, and is presently with the armed forces of the United States.

At the time of the issuance of the charging letter on August 18, 1942, Mr. Sampson was in the service of the Country and presumably unable as a practical matter to exercise his right, vouchsafed, under § 807.7 of the regulations of the Board, to elect to be heard orally. The Compliance Commissioner has ruled that, under the circumstances, the consummation of the proceedings against Mr. Sampson would be in violation of the spirit of the various acts of Congress providing for the relief of members of the armed forces from legal process.

Mr. Rafelson had no connection of any character with the misrepresentations in this license application.

On June 11, 1942, the Tower Sales Company filed with the Board of Economic Warfare an export license application to ship 50,000 pounds of lithopone and 50,000 pounds of bicarbonate of soda, respectively. Each application stated that the consignee, ultimate consignee and purchaser in foreign country would be Juan Staarthof, Monterrey, Mexico,

and that an order had been accepted by the exporter on June 11th; with respect to the use of material, the applications stated simply that the material concerned would be used in the manufacture of paints and in the packing of pharmaceuticals, respectively. The Chief of the Trade Intelligence Division charged that these statements were knowingly and wilfully false or fraudulent.

On June 5, 1942, Juan Staarthof wrote to Mr. Rafelson that he was in the market for these commodities and that if Mr. Rafelson could obtain the merchandise, the letter could be considered an order. At the time the applications for licenses were filed, the respondents, Tower Sales Company and M. B. Rafelson had not accepted this order, it being their intention to accept the order provided the material and licenses therefor could be obtained. Letters attached to each of the applications stated that the materials covered were intended to be used by the "purchaser" in the manufacture of paints and the packing of pharmaceuticals, respectively. Juan Staarthof is a broker in Monterrey, Mexico, and is not engaged in the manufacture of paints or the packing of pharmaceuticals. The respondents, Tower Sales Company and Rafelson knew at the time the applications were filed that Staarthof was a broker who intended to resell the commodities for which export licenses were asked, and that the purchaser and ultimate consignee named would not use the bicarbonate of soda to package pharmaceuticals, nor the lithopone in the manufacture of paint. The Compliance Commissioner found that, with respect to the filing of these license applications, no violation had been committed in connection with the charge of falsity of the statements as to acceptance of the order. However, it was found that the respondents Tower Sales Company and M. B. Rafelson materially misrepresented the ultimate consignee of the material sought to be exported and the use to be made thereof by the ultimate consignee named.

On June 10, 1942, the Tower Sales Company filed with the Board of Economic Warfare an export license application to export 5,000 pounds of citric acid. This application stated that Cia. Rafmex S. de R. L. in Mexico City would be the consignee, ultimate consignee and purchaser in foreign country; that an order had been accepted by the exporter on June 3, 1942; and, with respect to the use of material to be exported, merely that it was to be used for the manufacture of soft drinks. The Chief of the Trade Intelligence Division charged that these statements were knowingly and wilfully false or fraudulent.

Rafmex is a sales company of which M. B. Rafelson is the sole owner. It does not manufacture soft drinks but solely buys and sells goods. The respondents, Tower Sales Company and Rafelson knew in applying for this license that Rafmex did not intend to receive the citric acid for the manufacture

of soft drinks, but intended the same for resale. The Compliance Commissioner stated that no violation had been committed in connection with the charge of falsity of the statement that an order had been accepted. However, it was found that violations had occurred with respect to misrepresentations as to use of the material and ultimate consignee.

Under date of May 22, 1942, the Tower Sales Company filed a license application with the Board of Economic Warfare for the shipment of 50,000 pounds of bicarbonate of soda to Carlos de Curtis as consignee, ultimate consignee or purchaser in Mexico City. The charges of misrepresentations in this application were similar to those made with respect to the applications referred to in paragraphs 2 and 3 above. It was found that no violation had been committed in connection with these charges.

Upon consideration of the record, Findings of Fact and Recommendations, in this matter: *It is hereby ordered, That:*

(1) The charges be dismissed with respect to Bernard H. Sampson.

(2) The export licenses heretofore issued to the Tower Sales Company or M. B. Rafelson for exportations as yet not consummated are hereby revoked.

(3) The Tower Sales Company and M. B. Rafelson, and any person, association or organization acting on behalf, or for the account of the Tower Sales Company or M. B. Rafelson are denied the privilege of obtaining individual export licenses and the use of any general or unlimited export licenses for any exportation whatsoever from the United States until December 27, 1942.

The respondents may appeal in writing to the Assistant Director in charge of the Office of Exports provided the appeal is taken within ten (10) days after receipt of this order.

(Sec. 6, 54 Stat., Pub. Laws 75, and 638, 77th Cong.; Order No. 3, Delegations of Authority Nos. 25 and 26, 7 F.R. 4951)

Dated: November 13, 1942.

A. N. ZIEGLER,
Colonel, J. A. G. D.,
Acting Chief, Export Control Branch,
Office of Exports.

[F. R. Doc. 42-12759; Filed, December 2, 1942;
11:30 a. m.]

OFFICE OF ALIEN PROPERTY CUSTODIAN.

[Vesting Order 407]

FERD. MULHENS, INC.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

1. Finding that Paul Peter Muelhens, whose last known address was represented to the undersigned as being Cologne, Germany, is a national of a designated enemy country (Germany);

2. Finding that said Paul Peter Muelhens owns or controls Aktian-Gesellschaft für Aetherische Oele, (herein called "Aetherische"), a Swiss corporation, the last known

address of which was represented to the undersigned as being Glarus, Switzerland, and which is listed on The Proclaimed List of Certain Blocked Nationals;

3. Determining that to the extent that Aetherische is a person not within a designated enemy country such person is controlled by or acting for or on behalf of or as a cloak for the aforesaid designated enemy country (Germany) or a person within such country, and finding, therefore, that such person is a national of such designated enemy country (Germany);

4. Finding that Ferd. Mulhens, Inc., a New York corporation, New York, New York, is a business enterprise within the United States whose outstanding capital stock consists of: 1,000 shares of no par value common and 3,000 shares of \$100 par value preferred stock, which shares are registered in the following names:

Names	Number of shares—	
	Common	Preferred
Richard Stern.....	1	-----
Hazel McMullen.....	1	-----
Aetherische.....	998	3,000
Total.....	1,000	3,000

and that the two shares of stock registered in the names of Hazel McMullen and Richard Stern, as aforesaid, are held for the benefit of Aetherische;

5. Finding that said capital stock is property of, and represents ownership of said business enterprise which therefore is, a national of the aforesaid designated enemy country (Germany);

6. Finding that the property described as follows:

All right, title, interest and claim of any name or nature whatsoever of Paul Peter Muelhens and Aetherische, and each of them, in and to all indebtedness, contingent or otherwise and whether or not matured, owing to them or either of them by said Ferd. Mulhens, Inc., including but not limited to all security rights in and to any and all collateral for any or all such indebtedness and the right to sue for and collect such indebtedness,

is an interest in the aforesaid business enterprise held by, and is also property within the United States owned or controlled by, nationals of a designated enemy country (Germany);

7. Determining that to the extent that any or all of such nationals are persons not within a designated enemy country, the national interest of the United States requires that each of such persons be treated as a national of the aforesaid designated enemy country (Germany);

8. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise; and

9. Deeming it necessary in the national interest;

hereby (a) vests in the Alien Property Custodian the property hereinbefore described in subparagraphs 4 and 6, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States, and (b) undertakes the direction, management, supervision and control of such business enterprise to the extent deemed necessary or advisable from time to time by the undersigned.

Such property and any or all of the proceeds thereof shall be held in a special account pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, or to vary the extent of such direction, management, supervision or control or to terminate the same, if and when it should be determined that any of such action should be taken.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national", "designated enemy country" and "business enterprise within the United States" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Executed at Washington, D. C., on November 28, 1942.

[SEAL]

LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 42-12741; Filed, December 1, 1942;
4:37 p. m.]

OFFICE OF PRICE ADMINISTRATION.

[Order 67 Under MPR 188]

J. S. PUBLISHING CORP.

APPROVAL OF MAXIMUM PRICES

Order No. 67 Under § 1499.158 of Maximum Price Regulation No. 188—Manufacturers' Maximum Prices for Specified Building Materials and Consumers Goods Other than Apparel.

Approval of maximum prices for sales by J. S. Publishing Corporation, 200 Fifth Avenue, New York, New York, of four new jig-saw puzzles.

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and pursuant to the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, *It is ordered:*

(a) J. S. Publishing Corporation is authorized to sell and deliver, f. o. b. New York, New York, to retailers the following designated picture puzzles at prices no higher than those set forth below:

	Per gross
American Artists Series, containing 275 pieces.....	\$8.40
American Artists Series, containing 500 pieces.....	21.60
Mother Goose, containing two picture puzzles.....	8.40
Mother Goose, containing four picture puzzles.....	21.60

(b) This Order No. 67 may be revoked or amended by the Price Administrator at any time.

(c) This Order No. 67 shall become effective on the 2d day of December 1942.

Issued this 1st day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-12729; Filed, December 1, 1942;
2:45 p. m.]

[Order 20 Under RPS 57]

BIGELOW SANFORD CARPET COMPANY, INC.

APPROVAL OF MAXIMUM PRICE

Order No. 20 under Revised Price Schedule No. 57—Wool Floor Coverings.

On October 5, 1942, the Bigelow Sanford Carpet Company, Incorporated, New York, New York, filed an application pursuant to § 1352.4 of Revised Price Schedule No. 57 for permission to manufacture a new fabric and for approval of a maximum price thereof. The new fabric was designated in the application as "Fernfield".

Due consideration has been given to the application and an opinion issued simultaneously herewith, has been filed with the Division of the Federal Register. For the reasons set forth in the opinion and under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, *It is hereby ordered:*

(a) The Bigelow Sanford Carpet Company may sell, offer to sell, or deliver the following new fabric at prices no higher than those specified below:

"Fernfield", \$2.98½ per square yard f. o. b. mill,

"Fernfield", \$36.95 per 9 x 12 size f. o. b. mill,

subject to discounts, allowances, rebates, and terms no less favorable than those in effect with respect to the maximum price for "Fervak" as established by Revised Price Schedule No. 57. Other sizes and zone maximum prices of "Fernfield" shall be determined on the basis of the same differentials as established by Revised Price Schedule No. 57 between the square yard f. o. b. mill and the other sizes and zone maximum prices of "Fervak".

(b) This Order No. 20 may be revoked or amended by the Price Administrator at any time.

(c) Unless the context otherwise requires, the definitions set forth in § 1352.11 of Revised Price Schedule No. 57 shall apply to terms used herein.

(d) This Order No. 20 shall become effective on the 2d day of December, 1942.

Issued this 1st day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-12722; Filed, December 1, 1942;
1:29 p. m.]

[Order 21 Under RPS 57]

A. & M. KARAGHEUSIAN, INC.

APPROVAL OF MAXIMUM PRICE

Order No. 21 under Revised Price Schedule No. 57—Wool Floor Coverings.

On October 16, 1942, A. & M. Karagheusian, Inc., 295 Fifth Avenue, New York, N. Y., hereinafter called applicant, filed an application pursuant to § 1352.4 of Revised Price Schedule No. 57 for approval of maximum price of a certain fabric containing jute and cotton in the back and 50% wool and 50% rayon in the face. Applicant designated this proposed fabric as "Bentley".

Due consideration has been given to the application and the specifications of the fabric described therein and an opinion has been issued simultaneously herewith, and has been filed with the Division of the Federal Register.

For the reasons set forth in the opinion and under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, *It is hereby ordered:*

(a) A. & M. Karagheusian, Inc., may sell, offer to sell, deliver, or transfer the fabric containing cotton and jute in the back and 50% wool and 50% rayon in the face at prices no higher than those set forth below:

"Bentley" at \$3.75 per square yard f. o. b. mill roll.

"Bentley" at \$46.35 per 9 x 12 size f. o. b. mill.

subject to discounts, allowances, and rebates no less favorable than those in effect as to "Bufton" under § 1352.1 of Revised Price Schedule No. 57. Other sizes and zone maximum prices of "Bentley" shall be determined on the basis of the same differentials as established by Revised Price Schedule No. 57 between the square yard f. o. b. mill and the other sizes and zone maximum prices of "Bufton".

(b) This Order No. 21 may be revoked or amended by the Administrator at any time.

(c) Unless the context otherwise requires, the definitions set forth in § 1352.11 of Revised Price Schedule No. 57 shall apply to terms used herein.

(d) This Order shall become effective on the 2d day of December 1942.

Issued this 1st day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-12723; Filed, December 1, 1942;
1:30 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 70-620]

FEDERAL WATER AND GAS CORPORATION

ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 30th day of November, A. D. 1942.

Order granting application pursuant to section 10 and permitting declaration to become effective pursuant to section 12 (c) and Rule U-42.

Federal Water and Gas Corporation, a registered holding company, having filed an application and declaration pursuant to sections 10 and 12 (c) of the Public Utility Holding Company Act of 1935 and Rule U-42 of the Rules and Regulations promulgated thereunder, with respect to the purchase from time to time prior to December 31, 1943, for cash, all or any part of a maximum of \$500,000 principal amount of its 5½% Gold Debentures, due May 1, 1954, in the open market at current prices at the time of purchase but not to exceed the call price of said Debentures in effect at the date of each such purchase, the Debentures so acquired to be cancelled;

Said application and declaration having been filed November 5, 1942, and notice of said filing having been duly given in the form and manner prescribed by Rule U-23, promulgated pursuant to said Act, and the Commission, not having received a request for a hearing with respect to said application or declaration within the period specified by said notice, or otherwise, and not having ordered a hearing thereon; and

Said party having requested that the effective date of said application and declaration be advanced; and

The Commission finding with respect to said application under section 10 of the Act that the requirements of section 10 (f) are satisfied, that no adverse findings are necessary under the provisions of sections 10 (b) and 10 (c) (1), and that the proposed acquisition has the tendency required by section 10 (c) (2); and

The Commission deeming it appropriate in the public interest and in the interest of investors and consumers to permit said declaration pursuant to section 12 (c) and Rule U-42 promulgated thereunder to become effective; and

The Commission being satisfied that the effective date of said declaration and the date of granting said application should be advanced;

It is hereby ordered. Pursuant to said Rule U-23, that said application be, and it is hereby granted, and that said declaration, be and it is hereby permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24, and to the further condition that Federal Water and Gas Corporation file with the Commission, within ten days after the close of each calendar month, a report stating the principal amounts and dates of purchase, and the prices paid for all Debentures purchased during such calendar month pursuant to this Order, until there shall have been filed, as aforesaid, reports covering the purchase of said maximum amount of Debentures for each calendar month within which purchases pursuant to this Order may be made.

By the Commission, Commissioner Healy dissenting for the reasons set forth in his memorandum of April 1, 1940.

[SEAL] ORVAL L. DuBois,
Secretary.

[F. R. Doc. 42-12727; Filed, December 1, 1942;
2:40 p. m.]

[File No. 70-629]

GENERAL MANAGEMENT CORPORATION AND
WALNUT ELECTRIC & GAS CORPORATION

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 28th day of November, A. D. 1942.

Notice is hereby given that a declaration or application (or both) has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above-named party or parties; and

Notice is further given that any interested person may, not later than December 17, 1942, at 5:30 p. m., E. W. T., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration or application, as filed or as amended, may become effective or may be granted, as provided in Rule U-23 of the Rules and Regulations promulgated pursuant to said Act or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Philadelphia, Pennsylvania.

All interested persons are referred to said declaration or application, which is on file in the office of said Commission, for a statement of the transactions therein proposed, which are summarized below:

General Management Corporation, a Delaware corporation allegedly inactive since June 30, 1942, and a direct subsidiary of Walnut Electric & Gas Corporation, a registered holding company, proposes to liquidate by the payment of all its debts in cash, and the distribution of all its assets to its sole stockholder, Walnut Electric & Gas Corporation, as a liquidating dividend. Walnut Electric & Gas Corporation will surrender for cancellation to General Management Corporation all of the outstanding capital stock of that corporation, all of which, 5,000 shares, is owned by Walnut Electric & Gas Corporation. Upon the completion of these transactions General Management Corporation will be dissolved. Walnut Electric & Gas Corporation proposes to apply the proceeds from the liquidation of General Management Corporation to the reduction of outstanding secured notes issued by Walnut Electric & Gas Corporation in the approximate amount of \$28,000.

The declaration sets forth that the net assets of General Management Corporation, as of October 31, 1942, consisted of cash in the amount of \$28,462.65 and other net assets totaling \$197.32, and,

as of the same date, its debts amounted to \$41.67.

By the Commission.

[SEAL]

ORVAL L. DuBois,
Secretary.

[F. R. Doc. 42-12728; Filed, December 1, 1942;
2:40 p. m.]

WAR PRODUCTION BOARD.

[Certificate No. 24]

RECOMMENDATION OF PETROLEUM COORDINATOR FOR WAR

THE ATTORNEY GENERAL: Pursuant to the provisions of section 12 of Public Law No. 603, approved June 11, 1942, I submit Recommendation No. 58 of the Petroleum Coordinator for War.¹

I hereby approve said Recommendation for the purposes of section 12 of Public Law No. 603, approved June 11, 1942, and after consultation with you, I hereby find and so certify to you that the doing of any act or thing, or the omission to do any act or thing, by any person in compliance with such Recommendation, is requisite to the prosecution of the war.

DONALD M. NELSON,
Chairman.

DECEMBER 1, 1942.

[F. R. Doc. 42-12757; Filed, December 2, 1942;
11:32 a. m.]

¹ *Supra*.

